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St. B. Courts. Ct. of King's B. 1434,
THE TICHBORNE TRIAL:

THE SUMMING-UP

BY THE

LORD CHIEF JUSTICE OF ENGLAND.

TOGETHER WITH THE

**ADDRESSES OF THE JUDGES, THE VERDICT, AND THE
SENTENCE;**

THE WHOLE ACCOMPANIED BY

A HISTORY OF THE CASE AND COPIOUS ALPHABETICAL INDEX.

“In this extraordinary drama are wonderfully combined, and played one against the other, all the characters, all the ranks and classes, all the places, all the circumstances, all the styles and modes, all the spreading nations and universal languages, the chief religions, the prevailing tendencies, the traditions and the anticipations, the old world and the new, the most fixed and formed conditions of life and the most unsettled and chaotic, the weaknesses and the strength of a world always dying to be born again.”—*The Times*, March 2, 1874.

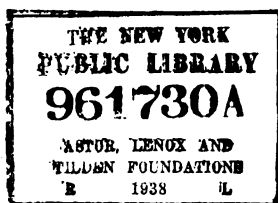
LONDON:

WARD, LOCK, AND TYLER, WARWICK HOUSE,

PATERNOSTER ROW.

1874.

1. Tichborne, Sir Roger Charles Doughty, 182
 2. Oulton, Arthur, 1834-1898.
- ED



LONDON:
BOBSON AND SONS, PRINTERS, PANCRAS ROAD, N.W.

COURT OF QUEEN'S BENCH.

Judges.

THE LORD CHIEF JUSTICE OF ENGLAND.
THE HON. JUSTICE MELLOR.
THE HON. JUSTICE LUSH.

Counsel for the Prosecution.

MR. HAWKINS, Q.C.
SERJEANT PARRY, Q.C.
MR. C. CHAPMAN BARBER.
MR. J. C. MATHEW.
MR. C. BOWEN.

MR. GRAY, Q.C., *Treasury Solicitor*.

Counsel for the Defence.

DR. KENEALY, Q.C.
MR. P. MACMAHON, Q.C.
MR. J. COOPER WYLD.

Former Solicitor, MR. HENDRIKS.
Present Solicitor, MR. C. HARCOURT.

The Special Jury.

HENRY FRANCIS DICKENS (<i>Foreman</i>).	GEORGE BEST WINTER.
CHARLES DUNSBY.	JOHN GEORGE SHEPPARD.
WILLIAM JOHN TAYLOR.	JOHN PARSONS.
WILLIAM PAIGE.	JONAS TURNER.
JOHN BENJAMIN FRANKLIN.	ROBERT EDWARDS.
WILLIAM SAMUEL RICHARDSON.	WILLIAM DOCWRA.

The indictment upon which the proceedings were founded was filed Easter Term 1872, against THOMAS CASTRO, *alias* ORTON, *alias* TICHBORNE.

First count of indictment charged Defendant with perjury committed in evidence given by him on the recent trial of Tichborne *v.* Lushington.

Second count charged Defendant with perjury in an affidavit sworn by him in the Chancery suit, Tichborne *v.* Tichborne.

Defendant pleaded 'Not guilty.'

Perman 3 May 1938 Billings Frank



ANALYSIS.

The indictment was against the defendant by the name of 'Thomas Castro, otherwise called Arthur Orton,' in two counts, with the crime of wilful and corrupt perjury. The first count charges perjury in his examination on the trial of the action in the Common Pleas in 1871; the second charges perjury in his affidavit in Chancery in the year 1868, in the course of the suit he had then pending in that court. In the first count, charging perjury at the trial, there are distinct 'assignments,' or charges of perjury, each sufficient to sustain the indictment, and all making up only one count.

1. In swearing that he was Roger Tichborne.
2. In swearing that he resided in Paris until 1845.
3. In swearing that Chatillon was his tutor.
4. In swearing that in 1845 he came to England to attend the funeral of his uncle, Sir Henry.
5. In swearing that he had been a student at the Jesuits' College in Stonyhurst.
6. In swearing that he had been an officer in the army.
7. In swearing that he had in July or August 1852 seen Miss Doughty (now Lady Radcliffe).
8. In swearing that he had in those months seduced her.
9. In swearing that he had, after the 22d of June in that year, ever seen her.
10. In swearing that he had ever seen Miss Hales in the company of her mother at Canterbury.
11. In swearing that he had been at Bilton Grange, the seat of Mr. and Mrs. Washington Hibbert.

12. In swearing that he had never been to Lloyd's rooms.
These are the assignments on the Tichborne part of the case, then follow others on the Orton part of the case.

13. In swearing that he was not Arthur Orton.
14. In swearing that he had never been at Wapping before 1866.
15. In swearing that he had never gone by the name of Arthur Orton.
16. In swearing that he did not leave England in 1848 in the Ocean, and did not arrive at Valparaiso in that year.
17. In swearing that he was not at any time between 1848 and 1851 at Melipilla (a place midway between Valparaiso and Santiago).
18. In swearing that he did not in 1851 come back from Chili in the Jessie Miller (the ship mentioned by himself in his statutory declaration at Sydney as the ship in which he had sailed).
19. In swearing that he had never seen Mary Anne Loder before 1867, and had not kept company with her.
20. In swearing that he had not written letters to her.
21. In swearing that he did not go out to Hobart Town in the Middleton (in November 1852).
22. In swearing that he had not seen any of Orton's sisters more than once before the trial.
23. In swearing that he had been charged, along with Orton, at Castlemaine, with horse-stealing.

Each and every one of which statements is charged as wilful
and corrupt perjury.

Then, in the second count, based on the affidavit in Chancery in April 1868, there were ten distinct assignments founded on his statements in that affidavit similar to the main assignments in the first count as to the Tichborne part of the case.

1. That he was Roger Tichborne.
2. That he resided in Paris to 1845.
3. That in 1845 he was brought to England.
4. That he was placed at Stonyhurst.
5. That in 1849 he was appointed cornet in the Carabineers.
6. That in October 1849 he joined the regiment.
7. That he remained on duty in the regiment until January 1853, when he returned.
8. That in March 1853 he took his passage on board a ship bound for Valparaiso, and in due course arrived there.
9. That from that time to April 1854 he travelled to various places in South America.
10. That in April 1854 he took his passage at Rio in the Bella for New York.

Each of which statements is charged as wilful and corrupt perjury, though
the whole constitute, as in the former count, one count.



HISTORY OF THE TICHBORNE CASE.

(From 'Daily News,' March 2, 1874.)

THE great Tichborne Case may be compared with those unwieldy old romances in which the main stream of narrative is always being obstructed, and every chapter has its episodes, and every new personage has his little story to tell. Tale within tale and incident within incident have, indeed, never been found in Oriental fiction more curiously exemplified than in that wonderful romance of the Law Courts which has at length bidden its last 'farewell to the reader.'

It seems already half a lifetime since paragraphs from the Australian newspapers brought us the intelligence that there had arrived in Sydney a man who, though entitled to a baronetcy and 25,000*l.* per annum, had for many years led the life of a slaughterman and butcher, concealing his true name and position. The tale was startling; but it found faith. Sir Roger Charles Tichborne, long believed to be dead, had at last come out of obscurity and retirement, and, with wife and family and retainers, black and white, was about to set sail for England to claim his own again. Then lovers of romance got down their Baronetages, and there found it recorded that Roger Charles Tichborne, eldest son of Sir James and Lady Tichborne of Tichborne, in the county of Hants, born in 1829, was 'lost at sea, off the coast of South America,' in the spring of 1854. But the Australian butcher had declared that this was all a mistake. Wrecked he had been, but not lost; on the contrary, he was alive still, and weighing nearly twenty stone. Even at that early time there were paragraphs in the papers mentioning the Osprey, which has since become so familiar a name; and the story of the rescue was abroad—in a rude and imperfect state, it is true, but sufficiently complete to satisfy, to some degree, while it whetted the public appetite for particulars. The statement then was, that 'when the *Bella* went down, Sir Roger and a dozen others escaped in the longboat, and after all but four or five men had been washed overboard, the *Osprey* had picked up the survivors.' It was also announced that Andrew Bogle, an old negro servant of the family, who happened to be at Sydney, had recognised the gentleman.

About the beginning of the year 1867 English journals began to take up the wondrous tale. It was reported that a member of the family, entering the chapel attached to the mansion near Alresford one Sunday morning, had been startled at seeing the old black domestic, who had left Tichborne with a pension many years before, and who now reappeared, bowed with age, and with grizzled locks, but not to be mistaken by any who had known him in the past. Then it was told how an error-

mous individual, who had called himself Mr. Taylor, had—quite apart from a gigantic ‘R. C. T.’ upon his portmanteau—been utterly unable to conceal his identity from gossips in the Swan Hotel in the little town of Alresford. There he had attempted to maintain his incognito by shunning the coffee-room, and living at a private chamber. Old tenants and old neighbours, however, knew him. The farmers around had hung about the hotel doors, only anxious to satisfy themselves ‘whether his knee turned in,’ and his ‘eyebrows twitched.’

One enthusiastic person having obtained, by particular request, what, in his excitement, he called ‘a full-faced view of his back,’ at once ‘slapped his thigh,’ and declared that he ‘would swear to the gentleman all over the world.’ Then the Australian stranger—forgetting his thirst for privacy in the enthusiasm of the moment, ‘recognised many persons,’ and even reminded them of little incidents of past years. There was, it is true, a jarring note in the form of a sturdy old village blacksmith, who had spent his life at Tichborne, and who, being asked by the gentleman, ‘Should you think I am Sir Roger?’ had been so forgetful of decency and good manners as to answer, ‘No, I’ll be d—— if you are.’ But his questioner had at once reminded him of how, once upon a time, when a little boy, Roger had set a dog upon the blacksmith’s cat—an old tom-cat—and how the blacksmith had run after the boy to chastise him with a flail. A few years later much grave discussion arose as to what were the precise words used on that occasion, and even the sex of the famous animal was hotly debated; while Sir Roger and the blacksmith were unhappily at direct issue on the point of whether the mere mention of the anecdote had not made the blacksmith ‘jump.’ But some people are by nature sceptical; and old Etheridge, the blacksmith of Tichborne, soon came to be known as the one infidel in a whole neighbourhood of believers.

When, three weeks later, there came news from Paris that the Dowager Lady Tichborne had thrown her arms, as far as they would go, around the long-lost wanderer, and had declared, in the presence of his attorney, that ‘the back of his head was like his father’s,’ and ‘his ears exactly like his uncle Edward’s,’ the bells of Alresford rang a merry peal; the joyful news was confirmed that Tichborne House, which, since the death of Sir Alfred, had been let to a stranger by the trustees of his posthumous son, was going again to be inhabited by one of the old race, who had been great folks in that part for nine hundred years. The joy became greater still when it was stated that ‘Sir Roger,’ having heard of the embarrassments of his late younger brother, had determined to pay all ‘Sir Alfred’s debts’ as soon as he came into his estates. Old Etheridge, indeed, was obstinate, and while shoeing horses in his grimy old smithy was accustomed still to grunt out rude observations. But, then, the estate of the late Sir Alfred owed him nothing; and what did Alresford care for what old Etheridge said?

Among the most conspicuous of the converts in Alresford was Mr. Hopkins, who, in conjunction with his intimate friend, Mr. Baigent of Winchester, began to busy himself very early in this matter. Mr. Hopkins had been solicitor to Sir James Tichborne, but the family had ceased to employ him. He had also been a trustee of certain Tichborne properties; but had been removed from that position by the late Sir James, at which he had expressed himself greatly chagrined. Roger Tichborne had never been his client; and letters of Roger have been brought to *light in which he expresses considerable dislike towards Mr. Hopkins.*

But Hopkins had been despatched to Ireland in 1850 by Sir James to obtain his son's consent to settlements on coming of age; and on the strength of this fact, Mr. Hopkins made an affidavit of his 'belief' that the Claimant was his 'old client.' Hopkins, however, took care to add that he 'could not call to mind his features,' and that he had been influenced solely by the 'knowledge' that this man had displayed of the family properties. What this knowledge could have amounted to may be inferred from the famous Wagga-Wagga will, in which, with a view of dazzling Mr. Gibbes by similar 'knowledge,' the Claimant disposed of a number of Tichborne properties, all of which are now known to have been purely imaginary.

Converts make converts, and success, according to the proverb, begets success. Busy Mr. Baigent, who knew even less of Roger than Mr. Hopkins, but who kept his eye upon all matters connected with the Tichborne genealogy, went about industriously spreading the report that the family solicitor had recognised Sir Roger. Then Colonel Lushington, the tenant of Tichborne House, who knew less than either, was so convinced, that he invited the Claimant and wife to stay with him, and at a subsequent visit a child of the Claimant was baptised in the chapel attached to the mansion. Colonel Lushington had never seen Roger, and had no connection with the family beyond hiring their house, with the old pictures, at a yearly rent. But he has explained that it was the 'knowledge' shown by the Claimant of the family pictures which had satisfied him. The Claimant did not tell him that when he came down under the fictitious name of Mr. Taylor, he had sent old Bogle to ask the housekeeper at Tichborne to let him look over the old place, or that he then gave the old black instructions to observe the position of the family pictures. Bogle, however, has admitted this, and that he at once made a report to his new master on the subject. Hence the Claimant's knowledge of the pictures was certainly not so conclusive as it appeared to Colonel Lushington. But the sojourn of the Claimant in the ancestral home necessarily helped still further in propagating faith in his pretensions, and the baptism of his child in the old chapel was even more calculated to add prestige. More than that, Colonel Lushington's ill-advised step necessarily tended to increase that 'knowledge' which, however obtained, it was clear that the Claimant knew how to use. Few weeks, indeed, could have elapsed before the Claimant was familiar with every part of the house in which Roger Tichborne had passed so many days with his aunt and uncle and their daughter, Miss Doughty; and he necessarily became acquainted with the park and the country round.

A few examples of this kind are as good as a hundred. Having once established that it was a system with the Claimant, aided by his numerous busy supporters, to pick up facts connected with Roger Tichborne's career, and to pass them off upon people as genuine recollections, it is hardly necessary to do more in order to dispose of argument founded on 'knowledge' than to show not only that facts *were* picked up, but that they were industriously sought for. Doctors' Commons furnished Mr. Holmes, the defendant's attorney, with the copious information contained in Roger Tichborne's will, which had been proved in what appeared the certainty of his decease. Before this document was referred to, the Claimant had been asked by Mr. Gosford, 'Who made your will?' to which he had replied, 'Hopkins, of course.' But ever after the visit to Doctors' Commons the Claimant affirmed that Mr. Slaughter made

his will, which was strictly correct. Possibly that piece of 'knowledge' satisfied other people who had not so clear a recollection of the slim young gentleman who used to come to Tichborne on short visits fifteen or sixteen years before, either to affirm or deny the enormous Australian butcher's claim to be the same man.

After Doctors' Commons the Claimant's attorney applied to the Horse Guards, and not only obtained copies of records of all the movements of the Carabineers, but exact dates and periods of all leaves of absence granted to Mr. Tichborne when serving as cornet and lieutenant in that regiment in Dublin, Cahir, Waterford, Clonmel, and Canterbury, in the years 1849-53.

Mr. Norris, the dowager's solicitor, was employed to obtain from Stonyhurst a list of all the professors and heads of that celebrated Jesuit College during Mr. Tichborne's three years of study there. Such documents would undoubtedly have furnished an 'impostor' with valuable 'knowledge,' and it is important to observe that they could not have been of the slightest use to Roger Tichborne. It was shortly after the date at which Mr. Norris charged in his bill for obtaining the list of the Stonyhurst professors, that the Claimant was examined in Chancery with regard to this subject, and on the previous day he had written to the dowager, 'I am in town preparing for my examination.' These circumstances undoubtedly detract from the value of the 'knowledge' which the Claimant displayed in examination of the names of the Stonyhurst professors, particularly as he pronounced those names, not as they sound to the ear, but as they might appear to the eye. When he was heard, for example, to pronounce Father Clough and Petre as 'Clo' and 'Petrey,' some Stonyhurst men who were present were struck at once with the fact that they never heard those names pronounced other than as 'Cluff' and 'Peter.'

It is easy to see that 'knowledge' of this sort was likely to increase at a sort of compound interest. Undoubtedly the Claimant did display, soon after this time, a good deal of knowledge, not only of the movements of the Carabineers in Mr. Tichborne's time, but of the anecdotal gossip of that regiment; so much, indeed, that several officers, unable to account for the fact, not only came to the conclusion that no impostor could have known so much, but began to find traces in the voice and features of the Claimant of their old brother officer. These gentlemen have since ceased to number themselves among the Claimant's supporters, except Major Norbury, who, on his second appearance in the witness-box, admitted that he had then considerable doubts. They, however, were certainly not aware that some months before venturing to approach any single officer among Roger Tichborne's old associates, he had taken into his house Carter, the regimental servant of Mr. Tichborne, besides Sergeant M'Cann and Sergeant Quin, late of the Carabineers. Carter was a coachman, and he had left another employment to come into the Claimant's service; yet it is admitted that the Claimant had at that time neither horses nor carriages. It is certain that the Croydon household was at that period greatly overstocked with male servants. Bogle was living there, but then he was a martyr to rheumatics, and unable to do anything unless it was to chat about old times. Carter may, therefore, have been useful in some honest way; but why Quin? why M'Cann? not to speak of Moody, Dunn, Fry, and the numerous others, who, though *not quartered* in the house, were equally in the Claimant's service? Of

course, the retaining of all these 'old soldiers' may have been a mere eccentricity; but when the Australian Claimant was found to be priding himself on his 'knowledge' of the fact that the officers put a young donkey into Mr. Tichborne's bed, and played upon him other practical jokes—when they heard that he sought to confirm his identity by remembering that Cornet Tichborne's horse, when in Dublin, kicked out the brains of his military servant, named Clarke—whose fault was it, under the circumstances, if some persons formed uncharitable conclusions?

Still in the first six months after the Claimant's arrival it could not be denied that he had won over a great number of persons, especially in Hampshire and in the neighbourhood of Poole, where the Tichborne family had property. They knew that he was an illiterate man; but then they were told by Mr. Baigent and Mr. Hopkins that it could be shown by Roger's letters that he made mistakes in grammar, which was quite true, but a high authority has justly pointed out that these errors were rather such as a foreigner would make than such as are peculiar to an unlettered Englishman. Then they knew that the Claimant's habits and manners were not those of an English gentleman. But Mr. Baigent was positive that Roger Tichborne's chief associates were servants and stableboys, which was an entire mistake, though not at that time very easily disproved.

But while the system of converting Carabineers and Alresford and Poole folks was in full operation, and volumes of affidavits were carefully circulated among hesitating witnesses, there were some who were aware of the full force of the fact that the Claimant held studiously aloof from all persons who had known Roger Tichborne intimately. Upon this point his family could be under no mistake; for there was not a solitary member of the numerous Tichborne and Doughty families who received a visit, or was even allowed, except by a *ruse*, to see him for some months after his arrival. There was his dear friend Mr. Gosford. About Roger's feeling towards that gentleman there has been, and could be, no dispute. Everybody knows that the Claimant has positively asserted, that besides making him his executor, he confided to him a secret of the most delicate kind; and, moreover, intrusted him with a duty demanding the most devoted friendship and the highest prudence and discretion. Yet the man calling himself Roger Tichborne left Mr. Gosford to track him out at an hotel at Gravesend, and when his old friend arrived there, rushed up to a room, locked himself in, and refused to see him.

There were Roger's cousins, the Greenwoods, at Brookwood, about half-an-hour's ride from Alresford. In no house, except Lady Doughty's house at Tichborne, had the real Roger been more welcome; but though the Claimant was frequently at Alresford and at Tichborne, he never went near Brookwood; nay, when Mrs. Greenwood expressly invited him, he wrote the well-known 'My Cousin Kate' letter, excusing himself on the ground of headache, and giving a promise to come, which he never kept. It was the same at the house of his uncles, the Seymours, at Knogle, and at the residences of all those numerous cousins whose names are mentioned affectionately by Roger. They received no visit from the long-lost Roger. Mr. Seymour, indeed, contrived to see him at the house of Mr. Hopkins; but, after questioning and examining him, he pronounced him an impostor. The Claimant had been in England

four months when that famous interview at Croydon between him, Mr. and Mrs. Radcliffe, and Mrs. Towneley was brought about, not spontaneously, but by arrangement between the attorneys, so that the names of the parties coming were known beforehand. Every one has read the story of that interview at which the Claimant addressed Mrs. Towneley, whom Roger had known intimately, in the words, 'How do you do, Kate?' evidently mistaking her for Mrs. Radcliffe, while he not only addressed Mrs. Radcliffe as Lucy, but continued to converse with both cousins under that evidently mistaken impression of their identity. Yet Mrs. Radcliffe was in her maiden days that same Miss Doughty for whom Roger had so strong an affection.

The scientific probing by Sir John Coleridge of the Claimant's ignorance of Roger Tichborne's life in all its relations and experiences, though not showy, or designed for popular amusement, was in fact masterly and complete. It was this long cross-examination which finally exploded the Claimant's pretence to be Roger Tichborne, and furnished the sure foundations of that criminal indictment which has brought the Claimant to a convict prison. If Sir John Coleridge would but have taken him through all the matters he had picked up since, with funds and opportunities at his command—this 'picking up' became the business of his life—doubtless a show of knowledge would have been presented which would have carried conviction to the uninitiated. But Sir John's object was to find out what he did not know, and yet what he must have known if he were Roger Tichborne. When to this was superadded the damaging exposure of the fraudulent devices to which he had resorted to maintain his claims, and the discreditable circumstances of his past life, the case was really at an end.

Long before this time, however, the Tichborne family had discovered abundant evidence that the man claiming to be the dowager's son was, in fact, the son of Orton, the Wapping butcher. An accidental discovery by a gentleman sent out to make inquiries in Wagga-Wagga led to a search, in the month of September 1867, in Wapping, where, by exhibiting the photograph, the gentleman prosecuting the inquiry found, not what he expected, but something still more startling. It was on showing it to the landlady of the now-famous Globe public-house that he was informed by that lady that she did not remember any neighbour or neighbour's son in former years like that; but did well remember a stranger of vast bulk making inquiries about Orton and other old inhabitants of Wapping on the previous Christmas-day, the very day, in fact, of the Claimant's arrival. This mysterious person, she said, was the very original of the photograph. Farther evidence was then found that the Orton sisters, who had been very poor, had suddenly become prosperous; and moreover that Charley Orton had confided to a friend in the butchering trade that he had a brother who was entitled to large property, and had promised him 5*l.* a month at once, with a future prospect of 2000*l.*, 'when he got his estates.' Charles Orton, as is well known, confessed the whole affair when the payments became irregular; and the Claimant, who at first denied all knowledge of Wapping, was finally compelled to admit his visit to make inquiries on the Christmas-eve, his allowance of 5*l.* a month to Charles, besides allowances to the Orton sisters, for which he could give no satisfactory or consistent explanation. The Commission sent out to Melipilla, in South America, to examine the folks whom the Claimant had admitted to be old friends of his there, resulted, as is well

known, in their all deposing that they only knew him as Arthur Orton; and his old employer's widow in Australia not only said the same, but produced evidence of the fact in the shape of ledgers of her late husband.


There is no need to go through the marvellously complete chain of circumstances which renders it inconceivable that the defendant can be anybody but the butcher's son. Those who imagine that his conviction on all the counts of the indictment has resulted from the jury putting more faith in the 'Yea' of one set of witnesses than in the 'Nay' of another set have certainly not gone very deep into the evidence. It was, in fact, the marvellous completeness of the circumstances, including records and other documentary evidence, all independently leading to the same conclusion, which constituted the strength of the prosecution, and placed the guilt of the defendant, both in affirming himself on oath to be Tichborne and denying that he is Orton, beyond all reasonable doubt.

It was not until the 30th of July 1867, and two following days, that the whole family circles of Tichborne and Seymour, and a number of Carabineer officers who had been most intimate with Roger, had a full opportunity of seeing him. For those entire three days the Claimant was under examination. The great hall of the Law Institution, in which these proceedings took place, was crowded by aunts and uncles and cousins of Roger, who had known him well; but there was no recognition between them and the man who claimed to be their relative; and with one accord they pronounced him an impostor. The only exceptions were Mr. Biddulph and Mr. (afterwards Sir) Frederick Constable, who were only remote connections; and both these gentlemen have stated that they did not personally recognise him, but came to the conclusion that he must be the same person from his being able to remind them of certain facts in connection with Mr. Tichborne's past life. Neither Mr. Biddulph nor Mr. Constable was of course aware that when in Australia the Claimant had shown himself entirely ignorant of Roger Tichborne's history and connections, as proved, not by somebody's memory, but by written records; nor did they know that he had now access to correspondence, and probably to diaries of Roger, which had been religiously preserved by the dowager.

They were not aware that he had taken into his house the old servant of Mr. Tichborne, and had engaged several other persons who could give him information; nor did they probably suspect that there were at that time at least half-a-dozen persons busily engaged in procuring for his use documentary information. It is easy to see that in this way a considerable amount of knowledge might be acquired by an impostor. But what these persons did not perceive was, that in a case of disputed identity it is not by a man's knowledge of what he might have learnt, but by his ignorance of what he must have known if he were the true man, that he is to be judged. For example, what number of anecdotes about life in the regiment could weigh against the admitted fact that the Claimant's mind on the subject of his life in Paris was a mere blank? Roger Tichborne, as was well known, was born and reared in Paris, resided there till his seventeenth year, frequently revisited the city, maintained old friendships of childhood, and parted there with many dear friends and acquaintances after a visit of three weeks immediately before embarking for South America—he being then in his twenty-fourth year. Let him be able to tell ten thousand tales of practical jokes played off upon Cornet Tichborne in Dublin, Cahir, Clonmel, and Waterford—still

how could we explain his total blank of memory with regard to all Paris associations, save on the assumption that, being ignorant of France and the French language, he had found it impossible to get hold of old servants or others who could instruct him as Carter, Bogle, and M'Cann could undoubtedly do with regard to Tichborne, Ireland, and Canterbury?

We have dwelt at some length upon the subject of the Claimant's 'feats of memory,' because the history of the case lies in these beginnings. To any one who will carefully study the examinations of his numerous witnesses on the civil trial, it will be apparent that this is the key to the extraordinary amount of support which he obtained. There are indeed plenty of witnesses who affirm that they remembered the voice, the walk, the upper part of the face, and what not; but in every case it is evident enough that what had really impressed them was that the Claimant was able to remember something which they remembered. But how easy this trick is has again and again been shown, and mere recognition after many years is of so little value on either side, that testimony of that kind is in some continental systems of jurisprudence altogether excluded.



THE TICHBORNE TRIAL:

THE SUMMING-UP

BY

THE LORD CHIEF JUSTICE OF ENGLAND,

IN THE COURT OF QUEEN'S BENCH.

FIRST DAY, *Thursday, January 29, 1874.*

I CONGRATULATE you, gentlemen, with all my heart, on having at length arrived at the last stage of this very protracted and in many respects very painful inquiry. I wish I could hold out to you any reasonable hope that the last stage of the case would also be a short one. When, however, I look at the extent of time over which the inquiry ranges, at the host of witnesses whose testimony we shall have to consider, at the multitude of documents and letters which we also shall have more or less to go through, and the complicated nature of the facts involved in the inquiry, I fear, gentlemen, I shall have to draw somewhat upon your time and patience, with a view to placing the facts before you in their various lights and bearings. But, gentlemen, you have shown such unwearied attention to the case, such inexhaustible patience, such a desire to get at all the facts in order to understand it, that I am quite sure you will bear with me while I make those observations upon it which appear to me to be necessary to enable you to arrive at a satisfactory decision.

Gentlemen, I have said that this is in many respects a painful case, and assuredly it has been—and this I say not only in reference to many of the issues involved, but by reason of the course which has been pursued in the conduct of the defence. It is most distressing for a Judge presiding at a trial to find himself in frequent conflict with one of the counsel in the cause, and that unfortunately has been the case over and over again in the course of this trial. It is a very painful fact so far as the Judge is concerned, because he cannot help being conscious that in the minds of the bystanders, who only see the case on the surface, it may have the effect of creating a suspicion that partiality and prejudice operate upon the mind of the Judge. When point after point, either of attack or defence, is taken of the most frivolous and untenable nature, the Judge has no alternative but to overrule such points, and if similar instances are multiplied, either through ignorance of the law, or, as would appear to be the case here, through a desire to produce an effect upon the outside world, and to lead them to suppose that the counsel on his side of the case are treated unfairly, the Judge has of course no alternative. He must do

his duty, whatever may be the meaning or the character of the points so taken. And the eternal recurrence to this line of conduct must of itself and of necessity produce an unpleasant impression on the mind.

But, gentlemen, this is a very minor part of the matter. Our position was rendered painful also from the fact that we had again and again to interfere with the address of the learned counsel in order to correct misstatements and misrepresentations which could not be allowed to pass without such interference on our part. When witnesses are misrepresented, when evidence is misstated, when facts are perverted—and that not for the purpose of argument in the cause, but in order to lay the foundation of foul imputations and unjust accusations against parties and witnesses—when one unceasing torrent of invective and foul slander is sent forth wherewith to blacken the character of men whose reputations have been hitherto without reproach, then it is impossible for Judges to remain silent. It is not enough to say that the learned counsel should be allowed to go on with his address to the end, and that the Judge should wait until it is his turn to speak, and then to set right matters which have been misrepresented and distorted. And especially is it not so in a case like this, where weeks and months might elapse before the Judge would have an opportunity of expressing his opinion, for in the mean while what might happen? A temporary impression—perhaps that is all that it was hoped to achieve—might have gone forth fatal to the honour and the character of the person assailed; wounds might have been inflicted which possibly never could have been healed. Therefore it was that we felt it to be our duty to interpose and check the torrent of undisguised and unlimited abuse in which the learned counsel for the defendant thought proper to indulge. And in what way, gentlemen, were our remonstrances met? In an ordinary case, if in the heat of argument, in the fervour of oratory, in the zeal with which the counsel engages in a case, in the examination or cross-examination of a witness, the strict bounds of propriety may sometimes, and not unnaturally, be overstepped—but this I say for the honour of the Bar of England, that

happens very rarely indeed—a word—nay, a hint—from the Judge is sufficient to restrain the overflowing zeal within its proper and legitimate limits. But we were met by contumely and disrespect, by insult, by covert allusions to Scroggs and Jeffries—judges of infamous repute—as if in days when such a spirit as theirs animated the administration of justice the learned counsel would not have been quickly laid by the heels and put aside. We were met by suggestions that we were interfering with the liberties and privileges of the Bar.

Gentlemen, I will undertake to say that no three Judges ever sat on this bench or any other to whom the liberties of the Bar were more dear or more sacred than they are to my learned colleagues and myself. We know full well that the freedom of the Bar is essential to the administration of justice. We know that it would be an ill day indeed for the country if the freedom of the Bar were ever interfered with. It may be, and it was here, abused, but this is a rare, a singular exception, which perhaps only proves the rule. We did not interfere with the privileges of the Bar; we interfered to check the license of unscrupulous abuse, to restrain that which, instead of being fair legitimate argument, amounted to misstatement, misrepresentation, and slander. The Bar of England—as high-minded, noble-spirited, and generous a body of men as are to be found in the world—have never claimed slander as one of their privileges, or considered its restraint as an invasion of their rights:

‘Slander,
Whose edge is sharper than the sword; whose tongue
Out-venoms all the worms of Nile; whose breath
Rides on the posting winds, and doth belie
All corners of the world: Kings, Queens, and States,
Maids, matrons—nay, the secrets of the grave,
This viperous slander enters.’

The Bar of England will never claim that as a weapon to be used in the advocacy which they so nobly carry on and exercise. But here, gentlemen, unhappily, the living and the dead have been equally assailed.

There never was in the history of jurisprudence a case in which such an amount of imputation and invective has been used before, and I sincerely hope there never will be another. Although the prosecution has been instituted by Her Majesty's Government and carried on on behalf of the Crown, you have been told that every one connected with it, from the highest to the lowest, counsel, solicitors, clerks, detectives—everybody is engaged in a foul conspiracy—has resorted to the most abominable means in order to corrupt witnesses, against whom I should imagine that nothing was to be said, except this, that they might have been mistaken in the evidence they gave—have been charged with taking bribes and committing perjury. Imputations of this kind are thrown out right and left. One man is called a villain, against whom there is no more reason for bringing such a charge than against any of us. The authorities of Stonyhurst are accused upon no ground of any sort or kind, not only with not teaching morality to their students, but with the design of corrupting their minds. They are said to have adopted a system under which youths are brought up to be men with the minds of women—with a covert hint at abominations half revealed, but from which one recoils and shudders; and all this with no more foundation than if the imputations had been brought against the authorities of Eton, Westminster, or any other of our great public schools. The dead are served in the same way. Lady

Doughty is charged with hypocrisy, because, is alleged, having discovered that her nephew attempted the honour of her daughter, and succeeded in that attempt, she shows him at door with bland smiles and with honeyed words. Captain Birkett, who is gone to his account went down in the *Bella*, is actually charged having scuttled the ship in which he unfortunately perished.

Who could conceive it possible that such and slanderous imputations could have brought forward in a Court of Justice? I must say, felt it the more keenly because learned counsel, in the outset of his address thought proper to parade before you an opinion which I had once expressed myself on an occasion when I believed I was speaking in the name of the Bar of England, and I am happy to say opinion received their unanimous assent.

tempted on that occasion to draw a distinction between that which was legitimate and that which was forbidden in advocacy, and I illustrate the distinction between the *fas* and the *nefas* of advocacy by reference to the difference between the sword of the warrior and the dagger of the assassin. The learned counsel for the defendant, by citing that illustration and applying it to learned adversary, charging him with having the dagger of the assassin in the conduct of prosecution. I am bound to say that a more founded charge than that was never made. That the learned counsel for the defendant should begin by citing with approbation that expression of my opinion, and then proceed to exhibit nay, I will not say all, much more than all *nefas* of advocacy which I had therein denounced. I must say did surprise and astonish me beyond measure. It seemed as though the learned counsel paraded that sentiment merely for the purpose of mockery, so utterly and entirely did he regard it. It has been very painful, indeed, for me to make these observations, but the occasion for it. The liberty of the Bar I should thought, until this time, incapable of abuse. I have seen and heard it abused. I think proper corrective for it is censure from the Bench—censure which I believe will meet, as it deserves to meet, with the universal concurrence of the Bar of England. (Suppressed applause.)

And now, gentlemen, passing away from unpleasant and painful topics, I come to the matter of the inquiry that is before us. The thing, then, to consider is—What are the issues that you have to decide? The first is the question whether or not the defendant is Roger Tichborne. That is the great, the main, the principal assignment of perjury in this case. There are many subordinate assignments, but in the end they resolve themselves into that. As to whether he resided in Paris from his birth, whether tillon was his tutor, and so on—it is unnecessary to dwell upon these at length, because they range themselves under the main and principal head to which I have referred. If the defence has sworn falsely in saying he is Roger Tichborne it is plain he swore falsely in saying he resided in Paris, that he had Chatillon for his tutor, and making those other various statements. Another principal allegation is, that he has sworn himself in saying that he is not Arthur Orton. Of course, if he is Arthur Orton, he is not Roger Tichborne; and the leading question in the case is, whether he is Roger Tichborne or quite true that, if he be Arthur Orton, he is not Roger Tichborne; but the converse of

proposition does not hold, for he may not be Arthur Orton, and yet he may not be Roger Tichborne. It is now raised as one of the issues of the case, 'Is he Arthur Orton?' Subordinate again to these questions are minor questions, such as, 'Did he go to Wapping, and did he do this, that, or the other connected with the career of Arthur Orton?' And you will have to consider whether in swearing he was not Arthur Orton he has sworn falsely. If you come to the conclusion that he is Arthur Orton, the second of the charges is necessarily involved in the first. But among the minor charges is one which stands clear of the question whether he is Roger Tichborne or not—I mean the assignment of perjury with regard to Lady Radcliffe; because, being Roger Tichborne, he may have sworn falsely with regard to Lady Radcliffe. For instance, supposing, knowing himself to be Roger Tichborne, but knowing that it is alleged that a certain sealed packet was left behind by him when he went abroad, the nature of which he may possibly have forgotten, or the circumstances under which it was given may possibly have passed from his recollection—knowing that Lady Radcliffe would be called as a witness against him, and feeling desirous of removing out of his way so formidable a difficulty, he may have resorted to falsehood and perjury to get out of the difficulty in which he finds himself placed. He may, therefore, being Roger Tichborne, have resorted to this vile and wicked falsehood to relieve himself of such a difficulty. Therefore, in that case, although not guilty of perjury in asserting himself to be Roger Tichborne, he would be guilty of perjury for having preferred a false accusation against the lady in question. There would, therefore, still remain the question, if he were Roger Tichborne, whether he had committed perjury in respect to that statement. But the main and great issue is, is he Roger Tichborne?

Now, complaints have been made by the learned counsel for the defendant that so large an area of inquiry should have been included in this indictment. Gentlemen, in my opinion, it was impossible to avoid it. It would have been idle to bring this case before you without bringing in the great and fundamental question—Is he Roger Tichborne or is he not? As to the degree of aggravated or mitigated guilt involved, everything depends upon whether he is Roger Tichborne, and whether he has put forward a claim for an iniquitous and detestable purpose. The difference, morally speaking, is at the first blush obvious. If, not being Sir Roger Tichborne, he has, with a view to deprive another person of his birthright and fortune, put forth an iniquitous claim, it is difficult to conceive a more abominable fraud; and if that fraud has been attempted to be carried into effect by perjury, it is impossible to conceive perjury more wicked or more deserving of the heaviest punishment which the law can award. Under any circumstances, gentlemen, perjury is a wicked offence, but very different would it be if the claim was a just one, and the man, knowing there were weak points in his case, should seek to make those weak points stronger, or to remove them out of his way, by false evidence. Supposing a man, knowing himself to be guilty, should suborn a witness to prove he was not at a given place at a given time, he is guilty of suborning perjury; but supposing he was innocent, and induced some one who was anxious for his safety, and believed firmly in his innocence, to come forward, how different it would be from the crime here charged against the defendant! So, if the defendant, knowing his claim to be well found-

ed and just, should, in order to cover some weak points in his case which made the statements appear inconsistent with truth on oath, have done so, he would be guilty of perjury; but how different would be the case where perjury was resorted to to accomplish a wicked and iniquitous fraud! In order, therefore, to see what was the offence committed it was necessary to embrace the larger questions.

I know there are persons, and persons in authority, who have said, 'Why don't they put this man upon his trial upon one of the short questions; whether, for instance, he was at Stonyhurst; whether the Bella went down as described; or whether the story of Lady Radcliffe was true.' Persons who have thus thought have not thought sufficiently on the matter; because when you come to think of it, it would have been impossible that any one of the minor points should be submitted to the jury without the whole question being brought forward. It is true the prosecution would have been crippled, because, having put the defendant on his trial upon one of the subordinate issues, they could not have gone into the whole question with any decency. But the defendant would have had this advantage—that, while they would have been restrained within the limits they had voluntarily prescribed to themselves, he would be entitled to go into the whole question from the beginning to the end. If the learned counsel for the prosecution had suggested the charge of perjury in relation, for instance, to the defendant having said he had been at Stonyhurst for three years, the answer would have been a most plausible answer on the part of the defence—'Why, you have put him upon his trial upon one of these minor issues, because you do not dare to put him upon his trial on the whole main issue involved in this inquiry. You knew he was Sir Roger Tichborne; but you think that, upon these minor issues, he would not have the means of proving himself to be Sir Roger Tichborne, and consequently, in order to crush an innocent man, you have resorted to this pitiful device. But we will not be bound by what you have done. We may not be able to prove that he was the Roger Tichborne at Stonyhurst; but we will prove that he is the Roger Tichborne at Stonyhurst by proving that he is the Roger Tichborne of the Carabineers; because if he is the Roger Tichborne of the one he must necessarily be the Roger Tichborne of the other.' That is the vantage ground which, by pursuing the course suggested by the learned counsel for the defendant, the prosecution would have afforded to his client. In my opinion, that would have been unwise, as well as altogether unworthy of a State prosecution of this kind. When it is complained that the indictment has embraced the allegation of perjury in the matter of Lady Radcliffe, my astonishment knows no bounds. I must say that it would have been in the highest degree unworthy of the prosecution if they had not made that part of the case an essential part of this indictment. From what you have heard from the learned counsel for the defendant, do you think, gentlemen, he would have been too scrupulous to use this species of argument? Would he not have said, 'Upon the former trial the case of Lady Radcliffe and the sealed packet was made the crucial test of the identity of the defendant. You might have made it so now. You have not done so. Why not? Because you knew that the charge of perjury against the defendant was not a well-founded one. I hold that to be the strongest argument,' the learned counsel would continue, 'that this man is

Roger Tichborne.' Therefore, gentlemen, I think the prosecution had a perfect right to submit the whole question whether the defendant is Roger Tichborne, and are right in making the inquiry in reference to Lady Radcliffe an essential part of the case.

Now, gentlemen, the question for you will be, first and foremost, is the defendant Roger Tichborne? The issue is substantially the same as was raised in the trial in the Court of Common Pleas, but the position of the parties is altogether reversed. The defendant's counsel, in his opening address, boldly challenged your verdict, not merely for the purpose of acquitting his client, but, as he said, for the purpose of insuring the restoration to him of his estates. 'If you, by your verdict, should acquit him,' it was said, 'their restoration must follow as a necessary consequence. The people of England will rise with unanimous fervour, and they will find the means to enable him immediately to recover the estates of which he has been dispossessed.' If, gentlemen, the restoration of the estates should necessarily follow a verdict in favour of the defendant, you should, upon the conflicting evidence brought before you, pause long before you find that verdict. But his restoration to the possession of those estates would not follow as a consequence of your verdict. Here is a case where a man claims property which is in the possession of another. In such a case he has to satisfy a jury beyond all reasonable doubt that he is entitled to that which he claims. The law of every country, as well as that of England, premises in favour of possession; and I cannot conceive a case in which the wisdom and propriety of that doctrine are more signally illustrated than in that of a man who submits to voluntary exile for years; who gives no tidings, direct or indirect, of his existence; who allows rights to arise upon the supposition of his death, expectations to be formed, the disappointment of which must be attended with pain, and distress to be incurred; and who then suddenly comes forward, springs up as from the dead, and says, 'I am the long-lost man; get out of the way, you who have got possession of the estates under an honest belief of your undoubted and indisputable right, and stand aside, and make room for me.' They look at him, and fail to recognise in him the man he asserts himself to be, and they say, 'We do not believe in you; we won't yield to you. Why have you been thus long in obscurity and exile if you are the man?' But while that is the case with regard to a claim to the possession of an estate, the position of the parties is very different when the claimant is charged with attempting to gain possession by fraud and perjury. When it is a claim to an estate the claimant must establish before the jury that he is what he claims to be; but when it is sought to visit him with the penalties of the law for having sworn falsely the position is reversed—it is for them to prove that perjury beyond all reasonable doubt, and therefore the question is not so much whether the defendant is Roger Tichborne as whether the prosecution has proved that he is not Roger Tichborne.

Now, the question is one of identity, and it is no doubt one of the most difficult questions with which courts of justice and juries have to deal. They are mostly cases in which the persons to be identified have only been seen for a moment or for a short time. A man stops you on the highway, puts a pistol to your head, and demands your purse; a garotter seizes you by the throat, and

while you are half strangled, his confederate rifles your pocket; a burglar invades your dwelling by night, and you have only a rapid glance at your unwelcome visitor—in all these cases the opportunity of observation is so brief that mistake is possible; and yet the lives of people would not be safe if we did not act on recollections, even though they are so brief. There are cases in which the recollection of witnesses has proved faulty. I recollect a case on the Western Circuit in which two men were tried for murder and both convicted—one on his identity being sworn to by numerous persons. If execution had followed as rapidly then as it was accustomed to do in earlier times, he would have been executed; but it was proved afterwards, beyond all possibility of doubt, that those who had sworn to the identity of the man were mistaken. He had committed an offence of picking a pocket hundreds of miles away, and when the murder had been committed he was in confinement at the time under that charge. There was not the slightest doubt in the world about it, and the man was released. I tried a case myself not long ago at Hereford, where a man was charged with night poaching and with a most serious assault upon the keeper, who had been most foully and cruelly used. The keeper swore positively to the prisoner. He was a respectable man, head-keeper to a nobleman in the county; nobody could doubt his veracity or intention to tell the truth. He swore to the man most positively. I had not myself the slightest doubt of his testimony. The jury convicted the prisoner. It turned out afterwards that we were all wrong, for it was proved satisfactorily that he had been taken for another man. And, therefore, I quite agree with what was said by the learned counsel for the defendant—that identity is a very difficult point; and here it is the question at issue.

But in the cases I am speaking of you have merely the evidence of persons who had only a short and casual opportunity of becoming acquainted with the appearance of the person whose identity is disputed. Here we have a much wider range of inquiry, but at the same time it is an inquiry which has its own peculiar difficulties. For whereas in the cases to which I have been referring the recollection is called forth speedily after the event, here we are dealing with the identity of a man alleged to have been dead ever since the year 1854—now 20 years ago—and the asserted identity of another man who has disappeared from the knowledge of all those who knew the undoubted man for a great number of years—from the year 1854 till, at all events, the year 1866 or 1867, when he first came forward. If in ordinary cases evidence of identity is calculated to mislead us or to embarrass us, how much more so must it be in a case like the present, where you have a host of witnesses confronted with an equal number on the one side and the other; where you have an entire family—for I really do not value the evidence of Mr. Biddulph—on the one side, but you have on the other a whole body of persons as familiar with Roger Tichborne, whose existence is in dispute, as it is possible for people to be, denying the identity of the Claimant; and, on the other hand, the mother of the undoubted Roger Tichborne asserting that he is her own son;—heaps, I may say, of witnesses coming forward to say that he is not the man, an equal or perhaps greater number coming forward to say that he is?

And we have the matter still further complicated by this extraordinary circumstance, that while the defendant says 'I am Roger Tichborne,'

and produces numerous witnesses to swear that he is, and another vast array of witnesses come forward to say that he is not, we have the identity of the person who claims to be Roger Tichborne asserted with reference to a totally different individual. And what is equally strange, the same conflict which occurs with reference to his identity with Roger Tichborne occurs with reference to his identity with that other person—Arthur Orton; and you have witness after witness produced to say that he is Arthur Orton, and witness after witness declaring that he is not. Now, it strikes me very forcibly that to a certain extent both sets of witnesses are right and both sets of witnesses are wrong. It is impossible to suppose that there is not a likeness between the defendant and Roger Tichborne. It is equally impossible, I think, to suppose that there is not a likeness between the defendant and Arthur Orton. And possibly in the end that may serve to solve many difficulties which the evidence displays. I have been deeply impressed with the fact that the witnesses who describe Arthur Orton have in many instances described him in the very same terms—in almost the identical language employed by witnesses in the other part of the case in describing Roger Tichborne. It may be that there we shall by and by find a solution of the difficulty.

But I am anticipating matter which, of course, will come in its proper place afterwards. All I have pointed out to you is the complicated and difficult nature of the inquiry, so far as regards the evidence of witnesses with reference to personal appearance. If the case rested there, if you had no other evidence before you than the conflicting testimony of those who say he is Roger Tichborne and of those who say he is not, even in that case you would have to consider which set of witnesses is the more likely to be right; and if you found that all reasonable probability pointed the one way, while improbability was to be found on the other side, you might make up your minds upon the conflicting testimony of the witnesses who have come forward to assert or to deny the identity of the defendant. But fortunately, gentlemen, the case does not rest there. We have got besides this conflict of evidence and opinion a mass of facts in this case which may serve to guide you to a right conclusion. We have the life of Roger Tichborne portrayed before us in a manner which I think cannot mislead us, and with that you will by and by have to compare the knowledge and recollections of the defendant. By means of the ascertained facts you will be able to judge of the value of the evidence which has been adduced on the one side and on the other: But you have more than that. You have that to which I should urge you above all to direct your anxious and vigilant attention. You have the conduct of the defendant, and you will have carefully to examine that conduct and see how far it is compatible or reconcilable with his being Roger Tichborne. Most of it is admitted and beyond doubt; and the facts of Roger Tichborne's life, and the facts which enable us to judge of his character and conduct, his views and intentions, and the conduct of the defendant when he comes forward to assert himself to be Roger Tichborne, are, to my mind, that upon which eventually you will have to base your decision, and determine for yourselves the great issue involved in this inquiry:

The first thing, then, is to familiarise ourselves with the life of the undoubted Roger Tichborne during the period of his existence, so far as we can, and to consider the various circumstances of

that life—personal, intellectual, moral, social, all that you have to make the sum and substance of the individual man. Fortunately, we have most important materials for so doing. Roger Tichborne was an habitual letter-writer; he was, in that respect, almost like a school-girl; and you find him writing in the full confidence of his heart to two, at all events, of his correspondents, making us thereby acquainted with the events of his life, and with the thoughts, feelings, and passions which were at work within him, so that we are enabled, by following these letters, to track him, step by step, as it were, through all the phases of his life, so as to know his hopes and intentions. By that means, when we have got the picture of Roger Tichborne within and without clearly before us, we shall be able to judge whether the defendant has shown himself to be that man, or whether, in the fair view of the whole facts exhibited by him, you must not come to the conclusion that he is not, and cannot be, Roger Tichborne. In addition to this, there is another matter of inquiry equally important. One man may resemble another. There have been such instances in the world, or imposture would never have been attempted. No man attempts to personate another who does not more or less resemble him. If a fair man represented himself as a dark one—if a tall man came to take the place of a short one, or a stout man to take the place of a lean man—if a man with a turn-up nose sought to represent a man with an aquiline nose, without being able to give an account for the change—in each case such a person would be repudiated with scorn. Those acquainted with the history of jurisprudence know that imposture has been tried on a large scale, and succeeded for a time, though in the end it failed. We know there are such instances. We know that there are cases of relations so alike that casual observers might mistake them. Shakespeare, in his *Comedy of Errors*, presents us with the instances of his two Dromios, and we have their prototypes in the still more amusing but less familiar *Menachmi* of Plautus. But no two men were ever alike within. If there could be two alike, to begin with, the mind and memory would very soon cease to be the same, for since the Creation no two lives were ever the same, and therefore no two men were ever the same. The acquirements of education and the influence of the passions would soon work a change. If one man claims to be another, it may fairly be asked if he knew what passed in the mind of the man he claims to be, and in this case we happen to have such knowledge before us.

There is no part of this case more deserving of your attention than that which refers to the answers of the defendant, in the examination he had to undergo as to the recollections of his life. In my opinion, and in that of every reflecting man, there cannot be a better test of identity than that to which I have referred, provided always that the inquiry be conducted under conditions which will insure the accuracy of the result. Two things are to be avoided. On the one hand, we must not require too much proof, but, on the other hand, we must not be satisfied with too little. If you require of him some very trifling individual circumstances you will be acting unfairly towards him, or if you set the memory of a multitude of witnesses against that of a single individual, it would be unjust. Take men who were in the same class at school, who were together in the same college, who were in the same regiment, and you will find that occurrences make

no impression on the mind of one man, while they will remain upon the mind of another. Every man who will take the trouble to recollect his early life will recollect some circumstance which has remained upon his mind, and find that he can recall some fact which another person who was present at the same time may not be able to recollect. It would not be fair, therefore, to say, 'Here are half-a-dozen different persons who were present on a certain occasion, and they all recollect a certain thing which you forget;' and still less fair would it be if each of those individuals were allowed to set up his memory and say, 'You are not the man because you don't remember all the different things that these six persons remember.' It would be unfair and unjust to deal with a man in that way; but there are things which a man cannot forget, and in respect of those things you are entitled to require that a man should exhibit some knowledge. But here, again, you must be on your guard, because things of importance pass away and are forgotten; but if you find a multitude of things, which you cannot fairly believe a man can forget, passing away and forgotten, it is a very different thing. There are things which are habitual and which the mind retains in the aggregate of things. You went to school at a given hour, you had your meals at a given hour, you went through a certain routine at college, and in business. You do not remember that you went into school at a given hour on a certain day, but the aggregate remains, and you know the hour from the habits of months or years at which you did certain things. Here again you have a fair test of knowledge. When you come, therefore, to test the knowledge of a man, to see if he had the mind and the knowledge of the person he represented himself to be, you may consider what is it he should remember, and, making allowance for the imperfection of human memory, you may get at certain results and establish for yourselves certain fixed principles which you may apply with certainty to ascertain what the real unaided memory of the individual is.

Let us go to the other side. You may be satisfied with too little if you are led to accept as true genuine knowledge that which is knowledge derived from extraneous sources, and not from the unaided memory. I can easily conceive a case in which a man bearing a close resemblance to the person and features of another may be induced to come forward. He would not have the audacity to come forward without some knowledge; but he may acquire the knowledge from without instead of possessing it from within. Supposing a man to establish a close acquaintance with another man in a foreign land, from whom he learns the secrets of his past life, and then that man having perished, if he were to say—'Here is an opportunity of coming forward and saying, "I am he"'—supposing in addition to that he possesses papers and journals, and suppose that a wicked man, capable of imposture, possessed himself of such papers—suppose that the man whom he ventured to personate had been in the habit of writing letters in which he detailed the circumstances of his life, and that these letters fell into the hands of a man capable of misusing them, and availing the opportunity thus afforded—suppose he falls in with persons who have been in the service of the man whom he intends to personate, and who had been acquainted with some of the important incidents of that man's life, and that these persons are either his willing confederates or his innocent dupes, and enabled him to get out of them a knowledge of things

which would enable him to put himself forward as the man he desires to represent—you may have in all or any of such sources such an amount of apparent knowledge as will deceive even the wary and delude even the sagacious, and yet it may be nothing but an impudent imposture. If you find that the man in question has sources of information at hand from which he might have obtained the knowledge which he displays before you, and you find that knowledge is not universal and uniform as to the events and circumstances of the past life of the man he seeks to represent; and if you find that his knowledge corresponds with and is limited to the sources of information that he possesses, these are circumstances which should necessarily be taken into account in considering and determining how far the knowledge he exhibits is true and genuine or fictitious, obtained from adventitious sources—in short, whether it is the genuine production of his own unaided knowledge.

These, gentlemen, are the observations which present themselves at the outset of the case, and which you will have to apply if you think them worthy of your attention as you proceed to deal with this case in the various forms in which the facts and evidence present themselves before you. I shall have, I dare say, in the course of the observations which, I fear, at some length I shall have to address to you, to advert to them again with a view to the practical application of some of the principles I have endeavoured to lay down for your guidance in the future course of this trial.

I now proceed to refer to that which, at the same time, appears to me as the very first thing with which we have to deal, and endeavour to place before you the events of the life of the undoubted Roger Tichborne, and from the materials we possess—above all, from the letters of Roger Tichborne himself—to portray to you, in as faint colours as I possibly can, the physical, the moral, the intellectual, the undoubted Roger Tichborne as he lived before you.

Charles Roger Tichborne was, as you know, the second son of Sir James Tichborne, the tenth baronet of that name. The Tichborne family is one of the oldest established families in this kingdom. The ancestors of Roger Tichborne have held the broad lands of Tichborne from a period anterior to the Norman Conquest. The Tichbornes were one of those Roman Catholic families who adhered to the old faith when that faith was generally replaced in this country by the Reformed Protestant religion. But they were not uniformly Roman Catholic. Sir Benjamin de Tichborne was in the reign of Queen Elizabeth one of the members for Hampshire, and in the last year of the reign of that monarch he was Sheriff of Southampton. On the death of Queen Elizabeth, as the books tell us, this gentleman, as soon as he heard of the event, took the bold step of immediately repairing to Winchester, and, without any orders from the Administration of the day, proclaimed in his capacity as High Sheriff the accession of King James I. to the Crown of England. For this service the new monarch conferred upon Sir Benjamin's four sons the honour of knighthood, and upon himself the Castle of Winchester in fee farm and the dignity of a baronet.

It is unnecessary to go any further into the early history of the Tichborne family until we come to the grandfather of Roger Tichborne, Sir Henry, who died in 1821, leaving four sons—his eldest, Sir Henry Joseph, who succeeded him; his second eldest, Edward, who afterwards took the name of Doughty; his third, James Francis,

who became Sir James Tichborne, and was father of Roger; and Mr. Roger Robert Tichborne, who lived for some time in Hampshire, and afterwards resided in Bath. Sir Henry left after him, besides the children I have mentioned, one daughter, who married an Irish gentleman named Nangle. Sir Henry Joseph died in 1845, in consequence of a fall from his horse while hunting, leaving six daughters. The six daughters were all married to persons well known to the world. The eldest, Eliza Ann, married in May 1821, Lord Dormer, whom you have had before you as a witness. Lady Dormer had three sons, one of whom has given material evidence in connexion with this trial, and the eldest of whom is the present Lord Dormer. There are also James and Herbert, the former of whom I shall have to refer to by and by. The second daughter of Sir Henry Joseph was Frances Catherine, who married in September of the same year Lord Arundell of Wardour, and who died in April 1836. Her name does not occur in the course of this inquiry beyond the fact I have mentioned. The third daughter, Julia, married on the 1st of July 1830, Mr. Charles Thomas Talbot, and was mother of Bertram, Earl of Shrewsbury. This name does not again occur in the course of the inquiry. Then there was Catherine Caroline, who married in April 1847, William Greenwood, of Brookwood, Hants, who became a lieutenant-colonel in the Grenadier Guards, and who has appeared before you. The fifth daughter, Lucy Ellen, married in 1840, Mr. J. Townley, of the county of Lancaster; and lastly, Emily Blanche married a Mr. Bennett, and had by him a son John, whose name was one of those put to the defendant. This lady married secondly Mr. Higgins, whom we all knew as an eminent writer. All these ladies were first cousins to Roger Tichborne and have all been called before you. Sir Henry Joseph died, leaving these six daughters and no son, in 1845, and was succeeded by his next brother, Sir Edward. By the will of a relative—a maiden lady, Miss Doughty, who died in 1826—he acquired large estates in Buckinghamshire, Lincolnshire, Middlesex, and London; and assuming her name, he was known as Sir Edward Doughty. He married a daughter of Lord Arundell of Wardour.

Sir Edward was born in 1782 and died in 1853. He resided at Upton, near Poole, a property bought by the trustees under Miss Doughty's will, with money directed by the will of Miss Doughty to be invested in landed property. The property bought by Sir Edward was not Upton—as Bogle mistakenly supposed, and as the defendant, adopting it from Bogle, also said—but land in its immediate vicinity, for 13,700*l*. It was entirely distinct from Upton, and I advert to this fact because it appears to me to be one not likely to have been forgotten by Roger Tichborne. Unless his memory entirely failed, he could not have made so singular a blunder as was made by the defendant in regard to it. Sir Edward Doughty transferred his residence to Tichborne after Sir Henry's death, but still kept Upton in hand, and we find that Sir Roger Tichborne spent his holidays sometimes at Tichborne and sometimes at Upton; and it is material to note the times of the one and the other residences. Sir Edward Doughty had two children—a son, who died in early childhood; and his other child was the lady whose name has been so painfully introduced into this cause, Katharine Mary Elizabeth, who became the wife of Mr., afterwards Sir Joseph Percival Radcliffe. Of course, on the death of Sir Edward,

leaving no son, he was succeeded by James, his brother, the father of Roger Tichborne. Sir James was born on the 3d of October 1784, and died on the 11th of June 1862, being then about 78 years of age. He married the natural daughter of Mr. Seymour, whose mother was a lady belonging to one of the most distinguished families in France—that of Bourbon Conti—and I say so because Mrs. James Tichborne, by right of her mother, on the division of the property of that family, received the large sum of 450,000*l*. Their eldest son, Roger, was born on the 5th of January 1829. They then had a daughter, who died in early infancy; and a second daughter, who also died young, in the year 1839, when her parents were residing in the Rue St. Honoré; and lastly, in September 1839, was born their second son, Alfred, who thus would be nearly ten years younger than Roger. Alfred afterwards—on his father's decease in 1862—assumed the title in the full belief of his brother's death, and he himself died on the 22d of February 1866. Mr. Tichborne lived at Paris until he succeeded to the estates, and all his children were born in Paris. Mrs. Tichborne was the daughter of Mr. Seymour, of Knoyle, whose other children have been called before you. Mr. Seymour had two sons, both known as public men—Mr. Henry Danby Seymour and Mr. Alfred Seymour. He had three daughters, Mrs. Bouverie, Mrs. Sandford (now dead), and Lady Rawlinson, and these four have been called before you.

Now, Roger was born in 1829, and the poor lad seemed to have been doomed to misfortune from his birth. He seemed to have been, or at least his mother was resolved he should be thought, a delicate child, and she had him tormented with an issue until he was nine years of age. He was born when his parents lived in the Rue de la Ferme, and it is not unnatural to notice the residences of his parents in Paris, as they were made the subject of part of the defendant's cross-examination. These residences could be traced in the evidence, and he was born in the Rue de la Ferme. In 1833 they removed to a street in the neighbourhood of the Rue Neuve de la Madeleine. In 1837 they removed to the Rue St. Honoré, and there they lived till 1845. There M. Chatillon was engaged as tutor, and there also the Abbé Salis resided in the *entresol*, and became intimate with the family. In 1845 the family removed to another place, and in 1848 they removed again, and then they removed to the Rue Castiglione, where they remained until 1850. In 1851-2-3 they lived in the Rue des Pyramides. You will have, hereafter, to consider whether a man would not remember the residences of his parents, and it is a fact that the defendant exhibited great ignorance of these residences as to time and place. How far that is material it will be for you to consider. In the Rue St. Honoré they resided eight years—from 1837 to 1845; in the Rue Castiglione from 1845 to 1850; in the Rue des Pyramides from 1850 to 1853, until they left Paris for England.

Roger was under the care of M. Chatillon for six years, but I fear he did not learn much, though I believe M. Chatillon did his best. Unhappily his endeavours were thwarted by the incessant interference of a misguided, ill-judging mother. Mrs. Tichborne seems to have been herself ill-educated, and to have cared little for education. Mr. Tichborne was aware of this, and desired to send Roger to school; but in this he was always thwarted by his wife. I do not desire to say anything harsh of her, but it is impossible not to see that she was of a singularly selfish and perverse

disposition. She loved selfishly, with a view to her own gratification, and not with a more generous regard to the welfare of the object of affection. She was jealous to the highest degree, and could not bear her husband's relations, lest they should intercept her son's affections. Therefore they became to her objects of the most intense aversion. She was a Frenchwoman, and disliked them the more that they were English. Her husband desired that his son should be fitted to fill the position of an English country gentleman, and he was anxious that he should have an English education. His wife was averse from this, and desired to retain Roger entirely under her own control. The pain this caused to her husband was portrayed by him in a letter to her father, Mr. Seymour, which quite revealed the truth as to his domestic life. He laboured, it appeared, under the disadvantage of a hasty temper, under which he often used strong language. But when his fit of anger was over his affection knew no bounds. His wife, cool and self-possessed, had an advantage over him, and he could only obtain reconciliation at the sacrifice of his just marital control. Thus she was able to retain Roger too long with her in Paris, and the result was that he was in a wretched state as to education. All this is abundantly described in the letter of Mr. Tichborne to his wife's father:

'Paris, May 21.

'My dear Seymour,—By the time this reaches you you will already have received a letter from M. Chatillon, which I requested him to write to you, saying how very ill I was, and I lament to add that I am still suffering dreadfully from the horrid sciatica, and can get but little rest either night or day. . . .

'You may with good reason complain of my great inexactitude in writing to you, "*mais quand on est aussi malheureux que je le suis, on est guère disposé à honorer.*" As all things in this low world must have an end, I am obliged to tell you plainly that I can no longer bear the cruel, unkind treatment I experience from Harriett, whose violence of temper seems to increase daily; and she seems to have no other idea in the world than making me as miserable as she possibly can, and in this, unfortunately, she succeeds to her heart's content, and I cannot but attribute my frequent indisposition to my wretchedness and anxiety of mind. After the severe affliction it has pleased the Almighty to visit me with, I feel daily how necessary it is for me to pass the remainder of my days in peace and quiet; and that with her is morally impossible, as M. Chatillon, who is but too frequently the object of her violent language, can vouch for as well as myself. To my family and relations she has long manifested the most bitter aversion, though I will maintain they have ever expressed themselves in the most kind and affectionate manner towards her, and abuses them as well as myself in no measured terms. The grand object she seems to aim at is to alienate me from all my family and to make a Frenchman of Roger. This, believe me, I neither can nor ever will submit to. Some time ago my brother Robert wrote to me to say that he was very desirous of seeing me, and would come and pass a fortnight with me. As you may imagine, this gave me very great pleasure, as I am very much attached to my brother; little supposing that his visit would have been attended with results so painful and humiliating to me, owing to the cruel and unkind conduct of my wife towards him, who was constantly abusing him and quarrelling with him during the short time he remained here, so

much so as even to astonish both Mons. C. and myself, though we know her so well; but she quite surpassed herself. Figure to yourself what I must have felt; I am obliged to own that I was in some measure prepared for this, as she showed more than usual ill-humour from the moment she knew he was about to pay me this visit; but not supposing it possible she would go to the length she did, I had not the heart to tell him not to come. I now regret it, both for his sake and my own.

'I must now make you acquainted with my plans, and trust they may meet with your approbation; at the same time be assured, my dear Seymour, I shall ever feel most grateful for any advice you may give me touching the subject I am about to enter upon, as I can assure you that I have the best opinion of your judgment and experience. My dear Roger is now, thank God, in good health, and the time appears to me as well as to others to be now arrived when it is absolutely necessary that he should go to school, and it strikes me, moreover, that if this plan is not adopted it will be to the greatest possible disadvantage of the child, whose future welfare I feel myself responsible for. M. Chatillon tells me candidly that he can be of no further use to him, and, indeed, intended quitting us in the course of a few months. He has done everything he could for Roger, but he is thwarted and worried by Henriette till he can stand it no longer. He is very much attached to Roger, and who deserves it, as he is an amiable and well-disposed child, and I flatter myself will get on extremely well at school. This plan, as you may well suppose, meets with the most violent and determined opposition from Henriette, and she abuses me with tears in the most violent manner possible, accuses me of being a tyrant and wishing to be the death of the child. All this I was prepared for, but I feel that I have a duty to perform towards my dear Roger; and if my plan meets your approbation, which I flatter myself it may, that you will support me in it. Pray have the kindness to write to Henriette and point out to her the necessity of this measure. Every argument I can make use of at present is of no avail, as she declares that in adopting this plan I am not acting upon my own judgment, but merely at the suggestion of other people, particularly of my brother Robert, who, she adds, has an interest in seeing the child dead; this, you must allow, is particularly harsh and unkind language, as it is totally false. In conclusion, I have only to add that it will be the ruin of Roger if he remains with her any longer, as she would render him totally unfit ever to go to school.

'You would bless yourself if you were to see the figure Henriette makes of herself in a morning, generally till between two and three o'clock. It consists of an old plaid dressing-gown, extremely dirty and with several holes burnt in it, no washing or combing, a night-cap, which is frequently very dirty, and a silk handkerchief tied over it. In this disgusting costume she came to breakfast one morning when my brother Robert was with me. So different is this to our ideas of propriety and cleanliness, that I felt quite humiliated and ashamed. She does not very often wear the gowns you had the kindness to give her, her favourite dress being an old red gown, not remarkably clean, and which is my aversion. What she does with the 300 francs which I pay her regularly every month is to me a mystery, but is perfectly scandalous on her part to go about such a figure.

'Friday.—I began this yesterday, but was too fatigued to finish it. My brother Robert intended

remaining a fortnight with me, but was completely driven away by the brutal treatment he experienced from my wife, and quitted Paris last Tuesday, and is by this time arrived in England. Henriette's violent hatred to my poor sister is such that I could never ask her here during the short time my brother was with me, though I can positively assure you that my sister is perfectly innocent of ever having done anything to offend Henriette either in word or deed. I slept better last night than for some time past; but at eight o'clock this morning I awoke with violent pains all down the thigh and leg. I am obliged to have Gasson to shave me and assist me at my toilette every morning, which at other times I never required. I have not as yet decided where I mean to place Roger. I cannot decide until after I have consulted with Doughty. I expect he will recommend Prior-park, which establishment, he writes me, is carried on upon a most admirable plan. Having passed the winter at Bath, he had frequent opportunities of visiting it in all its details, and approved of it most highly; so that the objections you ever entertained towards this establishment, I am inclined to suppose, no longer exist, and the system of education is reported to be very good; but of this more hereafter.

'I can assure you, my dear friend, that it has cost me many a sigh and many a tear to have written you all these melancholy details of our *intérieur*. I am very low and out of spirits, which is very natural when I see all the hopes of my future happiness blighted and gone for ever. I have done everything that depended upon me for peace and quiet, but which, unfortunately, I have never been able to obtain, and I now seem to be an object of pity and compassion, even to my servants. Both M. Chatillon and my faithful Gosselin have long witnessed my melancholy and dejectedness. I have not room here to tell you all I could wish; but when we next meet I will mention some circumstances that will astonish you. In all probability I shall take Roger to England towards the middle of July, and should it be agreeable to you and Mrs. Seymour, our first visit will be to Knoyle. I must apologise for this very long letter. I claim your indulgence to reflect upon its contents before you answer me. Our darling little Alfred comes on remarkably well, and is a beautiful child, and the best-tempered little fellow you could wish to see. My kind and affectionate love to all, and I beg to offer my sincere congratulations to Jane upon her *entrée dans le monde*. I pray that she may find everything *couleur de rose*, which cannot fail being the case with such kind and affectionate parents as she is blessed with, and now adieu. My dear Seymour,—Believe me ever yours very sincerely and faithfully,

J. S. F. T.'

For writing that letter, said the Lord Chief Justice, that gentleman, now in his grave, has been called a 'degraded slave.' I confess I can see nothing in it but the affection of a tender parent, though, also, a too weak and indulgent husband. It also shows the folly of a misguided mother, to whom the future misfortunes of Roger were probably owing. She yielded apparently in some degree, but ultimately she triumphed. It was agreed that Roger should be sent to a school near Paris, kept by one of the most distinguished men in France—M. Dupanloup. But no sooner was the boy there than his mother must go and interfere, and insist that he should be an exception from the ordinary discipline of the school. M. Dupanloup of course said he could not acquiesce in this, and she removed her son. M. Chatillon

had given up the task; they got another tutor, and he soon gave it up. The Abbé Salis kindly took the boy in hand, and found that M. Chatillon's instructions had not been quite thrown away, and that if the boy had had a fair chance he would have done very well. Then they engaged M. Jolival, who, however, did the boy no good, taught him nothing, took him about to billiard-rooms and *cafés*. No wonder Mr. Tichborne called him 'that scoundrel Jolival.'

At that time it appeared that Mr. and Mrs. Tichborne had some very intimate acquaintances—the Comte de Mandeville and M. D'Aranza, who were there almost daily. The Comte de Mandeville was fond of the boy, and made him presents which he was not likely to forget—a gold watch and a gold pin, given to him on the day of his first communion, a day to which Roman Catholics attached much importance. And many years afterwards Roger wrote to his mother to send him the gold pin given to him by the Comte de Mandeville. Then M. D'Aranza was a very constant visitor at the Tichbornes. Then there was the Abbé Salis, who appeared a most respectable and venerable ecclesiastic—whether he was worthy of the epithets of vituperation bestowed on him by the defendant's counsel out of his rich and inexhaustible vocabulary of abuse he could not say. Then there was Mrs. Nangle, an aunt of Roger's, with her children, his cousins, with whom Roger used to go out walking and amusing himself. With all these persons Roger was intimately acquainted; and he also knew Mr. Talbot Constable, then a boy there. Then there were the old servants of the family, who were naturally remembered by a child. There was an old servant who had watched Roger's growth from childhood upwards—Gosselin, his father's valet, who was with him 14 years, and, though he left the family, yet when Roger years afterwards was in Paris for the last time he went to see the old servant. The jury would have to consider whether it was possible Roger could ever have forgotten him. Gosselin was succeeded in 1845 by Burden, whose position was no doubt different, but who was in constant attendance on Roger when he was in Paris, and was with him the last night he was there before he went abroad, and nursed and tended him when indisposed. Here, again, was it possible that such a man could have been forgotten?

Then there were excursions which the family were in the habit of making every year from Paris, usually in June, July, and August. In 1839 the father went with Roger and Chatillon to Pornic in Brittany, and the incidents of their stay there formed a prominent feature in the history of the case and in the examination of the defendant. On the occasion of that visit occurred an accident, to which much importance was attached. Pornic was situated on the sea, not, as the defendant supposed, on a lake, and Chatillon and Roger were on one occasion bathing there, when Roger had a fall from a rock, which, said the defendant, cut his head and caused a scar I have now on my head, to which he appeals as a proof of his identity. That, no doubt, will be important, and will have to be adverted to. So next year, and year after year, there was a similar excursion—twice to the Pyrenees; once to Germany. In 1843 the father and the boy went to Brittany with Jolival, and in 1844 they went again to the same place. In the latter year Roger wrote to his mother giving an account of trip to Jersey, and referred to his little brother Alfred as '*bel tête*'—a term of endearment applied to a pretty curly-headed boy.

In 1845 Sir Henry Joseph Tichborne died, and it occurred to Mr. Tichborne that it was a good opportunity to take the boy away and bring him to England without raising a storm of opposition from his wife. So he brought him over under the pretext of attending his uncle's funeral, and when he was in this country he took care he should not go back to Paris; and, with the approbation of Mr. Seymour, he resolved to take him to Stonyhurst. The father accordingly took him to Stonyhurst, and placed him there. When they got there, on the 1st of July 1845, they were received by the rector. Father Bartow, who, however, being infirm, handed them over to the Rev. Father Waterlow, Prefect of the 'Philosophers,' among whom Roger was to be placed, sending also for M. de Brimont, a cousin of Roger's, who went round the place with him. It was with the joyful concurrence of Roger himself that he was placed at Stonyhurst, for he was sensible of the painful position in which he was, and rejoiced at an opportunity of improvement. The day after his removal he wrote to his mother:

'My Dear Mamma,—I entered College yesterday, July the first. We came at half-past twelve from Preston; when we arrived we went to see the Superior who is a very agreeable man, and received us very well; he showed us the establishment with great pleasure. The establishment is magnificent, the park very extensive, and one thing which is very beautiful is the Avenue by which one arrives at the College, which is nearly two miles long and is very large. The appearance of the house is magnificent; there is a very beautiful Church, besides several chapels; I am very well where I am. I shall be in the class of philosophy. I have a room, and shall work in one room and shall follow the courses that they follow in the College. I shall be under the direction of Father Waitersone, who you used to know and who will be my Superior. I am very well pleased where I am, and my health, far from being impaired, stands much fatigue, and I gain health and strength. Adieu, Dear Mamma. I embrace you with all my heart, and be always sure of my unbounded obedience.—Your very affectionate son,

ROGER C. TICHBORNE.

'I pray you, dear Mamma, not to make yourself uneasy about the part Papa has taken.'

What Lady Tichborne's state of mind was when she heard that her son was placed at Stonyhurst could be imagined, and it appeared from a letter of her husband that she had actually sent Jolival to England to drag Roger away from Stonyhurst. Happily, however, she did not succeed. At last Roger wrote a strong and determined letter. There was a deplorable ignorance of spelling in Roger's French letters. Roger wrote thus in French to his mother, complaining of her opposition to his coming to England, and telling her he went to College of his own free will, and much regretted that he had not been placed there earlier. This letter of Roger produced a letter from Lady Tichborne to the Rector, in which she appeared to have entered into private matters and her complaints against her husband, and this produced a letter from Roger reproaching her:

Stonyhurst, July 10, 1846.

'Dear Mamma,—I am very sorry that you did not understand the letter I wrote you some time ago. I had hoped that you would have understood better what I intended to say, for I assure you I was much surprised to receive no answer to all the letters which I had written to you (and this for a whole year), so that I have determined,

though with reluctance, to write this letter to you, to discover what grievances you have against me. In the letter I had from you yesterday you say nothing of a heap of things which I used to be acquainted with, and nothing at all of many things I should have liked to hear of. Among other things, I should like to know whether that nurse has left at last, as I should then look upon your peace of mind as assured, for the slanders and calumnies of that woman are inexhaustible, as you know. Do not tell any one that I have said this. I find that you have committed an inconceivable indiscretion in speaking of your affairs as you have done, in a letter to the Rector of the College. I should never have thought that you could so expose the differences which exist, according to your account, between yourself and my family, and so lay bare to every one your private affairs, which ought to be concealed from every one; and I say, without fear of contradiction, that you will lose more than you will gain by it; for, believe me, we often repent of having said too much, but seldom of having said too little. I hope sincerely, however, that you do not treat in this way everybody who has said nothing against you, for this course of conduct proves that you do not know how to keep family secrets, a most important matter in preserving the honour and reputation of any family. I have nothing more to say at present. I hope you will answer my letter as soon as you receive it, and then I could say more on the subjects I have mentioned in my letter. Embrace Alfred for me, and thank the Abbé Grével for his remembrances and remember me to him.—Your very affectionate son,

ROGER TICHBORNE.

Then Roger wrote another letter to his mother, in which he wrote:

'You charge my aunts with a host of things they never thought of, but so it has always been; you fancy things that make you miserable, and never existed,' &c.

And there were other similar letters. These early letters, said the Lord Chief Justice, are very material, and are the key to much that followed. They showed that Roger was thoroughly sensible of the faults of his mother and the defects of his early education, and they explained, also, his firm resolution not to allow his mother to influence his future life. So much for his life before he was at Stonyhurst. I would observe, as I have observed before, that nothing could be more deplorable than the state of ignorance in which Roger was left by Chatillon. Whatever Chatillon had done for him in the way of writing or other matters, his teaching as regards the most elementary principles of grammar must have been entirely lost. There is no French porter or chambermaid, however humble, who could have spelt worse. You see, then, gentlemen, how backward he was in point of education. As soon as he learnt English grammar Roger Tichborne accustomed himself to write in English. He wrote to his mother in these terms:

'I cannot explain your long silence with respect to me. In the first place, you have opposed my coming to England, in which you have been very wrong to make any opposition. But it is now done, and one must not look at the present, but to the future, which is far more important. You have wanted to set me at enmity with our family, but I must tell you I have not always believed what you told me, though I may have seemed to think as you did. You have said that I ought not to go to college, but I tell you openly and plainly that I went of my own full and entire will, and that it was the thing of all things most necessary, and I

greatly regret that I was not placed there earlier, and then I should not have found myself in the position I am. You have always spoken of my being in delicate health, and you have said it so long and so often that you at last succeeded in making my father believe it. . . . Another thing, although perhaps I ought not to say it, you may remember how I detested the life you made me lead when I was in Paris, and how I sought to be delivered from it, and I assure you I had the most thorough determination to be delivered from it as soon as possible. An opportunity presented itself, and you may well think that I availed myself of it with the greatest joy. Do not be offended with me for the things which I remind you of. They are facts too well known to you.'

It appears that letter brought an answer and a letter to the President of Stonyhurst. From that letter Mrs. Tichborne seems to have been so much annoyed that she entered into details of her family grievances. The letter was shown to Roger by his superior, and drew an answer from him in which he said :

'I never could have imagined you would have written as you did, and exposed in broad daylight the differences between you and my family. . . . You must be well aware that one is often sorry for having said too much, but never for having said too little.'

In one dated the 2d of September of that year he writes to her thus :

'There is no end to what you say against my uncles and aunts. You always charge them with a host of things that never happened.'

In the course of the first eighteen months after his arrival at Stonyhurst his English had been greatly improved, and he was thus enabled to write in English much better than he could in French. The letters which he wrote at this early period are of great importance, as showing in the first place that he entirely appreciated his mother's character ; in the second place that he was profoundly sensible of the injustice of her aversion and hatred towards his father's family ; in the next place that he was perfectly sensible of the disastrous effect of her injudicious treatment of himself ; and, lastly, what to the latest hour of his existence was the ruling and guiding principle of his conduct—namely, the fixed determination never to allow his mother—however he might express a profound sense of filial duty—to control, direct, or influence his future course of life.

We have now reached the period when Roger Tichborne was placed at Stonyhurst, and we find that he was put among that portion of the students called 'philosophers,' and it is necessary we should have a clear and distinct understanding of what is meant by that term. Upon the former trial, when the defendant was under cross-examination, a great deal of confusion was created by not distinguishing between the 'philosophers' as a class at Stonyhurst and the general body of the students receiving their education there. The number of those called philosophers was very small. The primary purpose of the establishment, as regarded the great proportion of the students, was to serve as a school where a boy was to stay long enough to pass through seven different classes. Those classes were called 'elements,' 'figures,' 'rudiments,' 'grammar,' 'syntax,' 'poetry,' and 'rhetoric.' When a lad had passed through these seven classes he had come to the top of the school. The time had arrived for him to leave, and he did leave. But it seems, with regard to the young man destined for the Church, there were means of

education provided which enabled them to obtain that most essential but intermediate knowledge which comes between the learning of the school and the preparation for the profession. Accordingly, lectures were provided at which the future Jesuit priest might be well trained in all that is necessary to develop the powers of the intellect and prepare him for the future warfare of the world. Mental science, moral science, the exact sciences—all were taught to those young men who had ceased to be schoolboys. Accordingly, among the Jesuit fathers were men who, as professors, undertook to deliver the necessary lectures. But the advantage of this more enlarged course of study was not confined to ecclesiastical students, but was extended to others, not intended for the Church, but for some other profession, or no profession at all ; and, accordingly, a class became established called 'philosophers,' because they so far pursued the same course of study as those intended for the priesthood. They were called philosophers because they were supposed to devote themselves to the study of what is properly called philosophy. But after a time the benefits of this institution were extended to others who did not care particularly to study these higher subjects, and especially to foreigners who came to learn English. Even English youths, whose knowledge of the language would enable them to pursue that course of study, were admitted, so long as they conformed to the discipline of the College, to the same advantages.

Those young men were treated on a very different footing from schoolboys. They were no longer boys, but young men, and they were allowed more or less discretion in the way of study. If they chose to study, there was the opportunity ; there were professors in all these various departments of science. If they wished to go through the lectures, so much the better ; but if they did not, they were not compelled—there appears to have been laxity in this respect. They mixed very little at all with the boys of the school, only occasionally joining in some of their games, such as football or cricket. With regard to those two branches of Stonyhurst College, it was very much the same as though in the neighbourhood of Westminster School a Westminster University had been established, and both were under distinct regulations. I fear sufficient discrimination has not been made between those two branches of the same establishment. Roger was placed in the class of philosophers, which necessarily implies a different residence from the residence of the schoolboys. At first the young men destined for the priesthood lived in what was called the 'Seminary,' but within a month after Roger joined a change was made ; the philosophers were removed from that portion of the College buildings they had previously occupied, the Seminary was appropriated to them, and there they lived during the whole of the remaining period that Roger Tichborne was at Stonyhurst. You will by and by have to decide for yourselves whether Roger Tichborne did live in the first place in the college with the rest of the body and was afterwards transferred to the Seminary, or whether you are to believe the defendant—that when first he went to Stonyhurst he was put into a cottage, where he lived for 12 or 14 months apart from the rest of the body to which he belonged. It appears that Roger Tichborne arrived at Stonyhurst on the 1st of July 1845, that he was placed among the philosophers, that he went away on the 1st of August for the vacation, and

that he returned in the middle of September, when the vacation had come to a termination. He remained until the 1st of August 1848.

Meantime there had begun that correspondence with his aunt Lady Doughty which forms so remarkable a part of his history. Being without a paternal home in England, he would either have to go to Paris for his vacation or to trust to the kindness, hospitality, and affection of relations in England. Of course there was no one to whom his father would more naturally look for kindness and protection for his son than to his own brother; therefore it was natural that Roger should pass a part of his vacation at Tichborne. But there was another portion of his relations, those on the mother's side—the Seymours—who were ready to receive Roger with open arms, for although the relationship in this case was not ostensibly and formally acknowledged, yet in respect of all offices of kindness, affection, and love it was recognised as though it had all the ties and sanctions of legality attached to it. Roger, therefore, passed his vacations between Tichborne and the charming residence of Mr. Seymour at Knoyle. You will have to judge by and by whether there is anything in after years in which the remembrance of the schoolboy would be more vivid than as to the period of his holiday.

The holidays at Stonyhurst were peculiar. In most schools there are two or three vacations of unequal length—Christmas, the time of family gatherings, and summer, when the enjoyment of life is greatest, are the two great periods for boys and youths returning home to rest from their labours. Easter also affords a proper opportunity for boys returning home. At Stonyhurst it was not so. There they allowed only one vacation in the year—a long one. It commenced regularly with the beginning of August, and lasted for the schoolboys six weeks, to the middle of September, and for the philosophers two months, to the beginning of October. But there were at Stonyhurst two other holidays, which I may call 'internal' as distinguished from 'external.' For two or three weeks at Christmas and two weeks at Easter work was suspended. The boys did not go home, but they amused themselves within the precincts of the college, and had entire rest from schoolwork. Sometimes the philosophers, if they wished to make a short visit at Christmas or Easter, could do so; but generally speaking, it may be taken as an undoubted fact, with respect to the establishment at large, that there was no occasion on which the boys returned home except in the summer. In August every year Roger Tichborne went either first to Tichborne and then to Knoyle, or first to Knoyle and then to Tichborne. After the first vacation there commenced a correspondence with Lady Doughty, to which I shall have to direct your attention.

Gentlemen, I am about to introduce to your notice the correspondence between Lady Doughty and Roger Tichborne, which commenced in 1846, and which seems to me, from the beginning to the close, to afford a very safe guide by which to familiarise ourselves with the life and character of Roger Tichborne. I am afraid your patience will be tried by taking you so fully, as I propose to do, through this correspondence, but to my mind the letters which passed between Roger Tichborne and Lady Doughty, and those between him and Gosford, afford us the best means of entering into the character, views, and purposes of Roger Tichborne. The letters are so numerous *that I will not trouble you with the details of*

family life relating to the ordinary events of the day, but only with matters that I think of considerable importance—matters which appear to me to go to the very pith of this inquiry. I shall not trouble you with any letters until we come to one which has reference to a disastrous incident, which must have disturbed the even tenor of Roger's way. Roger was staying at Tichborne Court in 1846, and his father was there too, when it appears that his mother took it into her head, uninvited and unexpected, to present herself at Tichborne. Her position in the Tichborne family was perfectly well known. When Robert Tichborne came back from Paris, having been insulted and ill-treated by Mrs. Tichborne, he told his story, and that explains the position in which Mrs. Tichborne stood to other members of the family. You may easily understand, therefore, that Mrs. Tichborne was not in the best odour with them. They resented the manner in which some of them had been treated, and although they received Mr. Tichborne and his son with open arms, they could not entertain very cordial feelings towards Mrs. Tichborne. Accordingly, she had to return to the inn at Alresford. We find her referring to the matter in a letter to Roger, thus:

'We both felt so much that, after being so happy together, your father ended in being so much displeased; but it can't be helped.'

From that time to the end of 1850 Mr. Tichborne never set foot within Tichborne-park, but the son was frequently there. There are some letters written by Roger from Stonyhurst in 1847 which deserve some notice. He now begins to write in English, and, as he preferred to speak in French, and as his mother was essentially a Frenchwoman, he would naturally have written to her in French; but at this time he possessed a greater proficiency in English. And now, mark, a change occurs in the commencement and ending of his letters: the 'Mamma' of the boy is changed into the 'Mother' of the man. From that time he always writes 'Mother.' In a letter bearing date Stonyhurst, June 24, 1847, he says:

'My dear Mother,—I was sorry to see that you trouble yourself so much about my health. My health has been always good since I came here, and for that reason I wish that you would not trouble yourself so much about it. I don't know why l'Abbé Salis has never answered any of my letters, because I suppose that you gave him the letters that I addressed you, and which were for him; but in all cases I find it very strange on his part. I should like to know what became of Mr. Dumasures; I should fancy that he is priest now. I wish very much to have *La Vie de Duguay Trouin et la Vie de Colbert*, because I have no more French books to read at present. I pray mention what I send to the Abbé Salis.'

In these earlier letters you will find numerous instances in which you have the simple translation into English of French phrases. The fact was he was doing in writing what he did commonly in speaking—namely, translating French into English. For instance, instead of writing 'at all events,' as we should do, he writes 'in all cases,' which is a literal translation of *en tous cas*. Here is a letter to his mother which will illustrate what I mean:

'My dear Mother,—I cannot conceive why l'Abbé Salis has not received my letters. The only thing to which I can attribute that is to your own fault, because every letter that I wrote to him I addressed them all to you. The only thing I can think is

that you kept the letters. If you have done that it is very rong of your part.'

Roger Tichborne went to Stonyhurst in the beginning of July 1845, and the question is whether he left it at the appointed time. The collegiate year began always at the termination of the summer vacation, and the usual period of collegiate life is somewhere about three years. When Roger was placed at Stonyhurst his father's intention was that he should go through a three-years' course. That this is so I gather from two things—first from a letter of Lady Doughty to Roger at Stonyhurst. She writes under date 'Tichborne-park, November 3, 1847:—

'My dear Roger,—I am very sorry to have been so long without answering your kind letter and telling you that the books arrived safe home, but I have had much to occupy me, and so many letters daily to answer, that I have let time slip away. We were rejoiced to find that there was a change of masters that gave you hopes of finding much more agreeable management in the College this year, and so, dear Roger, as there is always much knowledge to be gained under any circumstances in a college, I hope you will profit for the remainder of your college life. When I look back to my school life I think I gained more the last year than all the previous ones. I hope you may find the same. We were glad to hear you liked Upton. I have spent so many happy years of my life that every recollection of the place is dear to me. Have you any answer yet from your father respecting the Austrian service?'

That seems to me to point to his last collegiate year—the third since he had entered—which would expire in August 1848. We now come to a passage which relates to certain books which Roger was intending to read. I have no doubt these were the French novels of which we have heard so much. I shall have a word to say by and by with reference to the character of these books, the pernicious tendency of which has been very much exaggerated. But there is no doubt that to find her nephew reading works of this kind, replete with coarse indecency, would shock the mind of an English lady brought up with great delicacy and refinement. She accordingly writes to say that she had tried to read the books as he wished, but could not, notwithstanding certain attractions of style; and she adds, 'Surely we are created for far nobler views than to occupy ourselves with themes of vice,' and she ends, as she always does, with her love to her nephews. It is important to bear in mind that at Stonyhurst, when Roger was there, John Arundell and his younger brother Edward were there also. They were both at Stonyhurst, and we know from Stonyhurst witnesses that the philosophers who had relations passing through the school invariably met those relations and walked with them on Sunday morning after mass. The two Arundells were there at the time, and Roger walked with them Sunday after Sunday; and I will undertake to say there never came a letter from Lady Doughty in which she did not refer to those two nephews and send some kind message. Besides the letter of Lady Doughty which points to Roger leaving on the 1st of August, there is another from Mr. Seymour, which plainly says that the 1st of August, at which period the collegiate year expires, was the time when Roger was to leave.

In November 1847 it occurred to Mr. Danby Seymour that, Roger's education having been so deplorably neglected, the best thing to do to make up for his deficiency of training was to put him into the army. The army is a school which,

though classical and scientific education is not to be obtained in it, develops the man and the gentleman more rapidly than could be done, perhaps, by any other form of training. It was therefore proposed that Roger should go into the army, and Roger gladly listened to the proposal. Mr. Danby Seymour seems to have talked the matter over with Mr. James Tichborne, who agreed in thinking the best thing for Roger was that he should enter the army. In giving his consent to this course, however, the father made it a condition that Roger should remain at Stonyhurst till August. Finally, it was decided that he should continue at Stonyhurst till the end of the year 1848, and then enter the army. This was the fixed determination of Mr. Tichborne at the time the application was made for a commission. Sir Edward Doughty wrote to Lord Fitzroy Somerset, the right-hand man of the Duke of Wellington, through whom all applications for commissions at that time passed. Sir Edward received in answer an assurance that his nephew's name had been placed on the list of the Commander-in-Chief for a commission when his turn should come. So the matter stood.

Now, in the course of the year 1848, Sir Edward and Lady Doughty had removed to Tichborne and settled there; and Upton, the place they had previously occupied, by the Dormers, who resided there for six months at least. In 1848 Mr. James Tichborne came to England, and he brought with him his boy Alfred, as he had done on a former occasion, thinking it right that the little fellow should be introduced to his English relations, and not live isolated without their acquiring that interest in and affection for him which ought to exist between relatives. This appears to have been displeasing and distasteful to Mr. Tichborne's wife, and accordingly, in a letter written by him to her on the 24th of July, we find him vindicating his conduct. In this letter, which the Lord Chief Justice read, Mr. Tichborne expresses distress that in the exercise of his duty towards his children, in having his children in England, 'which is their true country, as his father is an Englishman,' he should have made his wife unhappy. In this year 1848 I find Roger in correspondence with a gentleman named Walter Strickland, who was the son of a gentleman living in the neighbourhood of Tichborne, and who became a great favourite at Tichborne-house. Old Lady Doughty took a great interest in him, and treated him almost as if he were a member of the family. An intimacy sprang up between Roger and this young Strickland, who was destined for the navy, which he entered as a midshipman, becoming eventually a post-captain in Her Majesty's service. He wrote the following letter to Roger, from Her Majesty's ship *Amphitrite*, dated the 30th of April 1848:

'My dear Roger,—It was with the greatest pleasure that I received your letter from Stonyhurst. You forgot to date it, so I do not know when it was written, but from your dear and excellent Uncle and Aunt Doughty I have heard of some prospects of getting a commission in the British army.

'You will easily imagine that I am better pleased at this prospect than if you had entered the Austrian, a foreign service. It was all very well for young English Catholics to enter such armies when the laws of our country rendered it impossible for them to join their own: but now let every Englishman lend his arm to defend "the flag that has braved a thousand years the battle and the breeze." I am sure that you are becoming more English in your thoughts, for your letter

shows it. Pray, my dear Roger, let us continue our correspondence. Thank God, I am as contented and happy as ever in my ship. We have been here now for two days, and shall start the day after to-morrow for the Bights of Benin again, where I suppose we shall remain for two or three months longer. The more I see of this strange world and the people in it, the more convinced I am that the next is the only life worth living for. Reflect on this, dear Roger, and do not defer any longer (if you have not performed your promise to me) to make a clean sweep of your conscience, but for God's sake I conjure you not to dare to approach the Holy Communion without the most ample and awful preparation. I say awful, for who can think of receiving his God—the Great Being who, by His word only, created all things!—without a feeling of awe? But I must not turn preacher! Is not L. S. too nearly related to you, for you?”

A Juror.—Was Mr. Strickland a Roman Catholic?

The LORD CHIEF JUSTICE.—I think this letter shows most clearly that he was. Then we have Roger writing to his mother on the 20th of May in the same year. The only passage worth noticing is one in which he shows the interest he always took in the Abbé Salis. He says:

‘I suppose you sometimes see the Abbé Salis; when you do give my regards, and tell him I should be glad to receive a letter from him.’

To show how mistaken Mr. James Tichborne was as to the feeling of Sir Edward and Lady Doughty in respect to him, Lady Doughty writes:

‘Whenever this is the case Sir Edward always frets, and especially since the unfortunate estrangement between your father and us. It is uppermost in our hearts and creates much grief. Sir Edward is sorry your father does not come to England, as it lessens the chance of that reconciliation which we hope will one day happily be brought about. We shall be glad to see you here. Send all the trunks you like; they shall be taken care of.’

There was a matter which much struck me in Lady Radcliffe's evidence. She stated that when she saw Roger at Bath in January 1849, she had not seen him before for I know not how many years. Well, it struck me as being strange, considering that Roger was so often at Tichborne for his vacation. Here, however, is the explanation. Lady Doughty, writing in June, says:

‘I shall have to take our dear Katie back to Taunton in a few days. I wish you could have joined our merry party, but your holidays are always at such different times of the year.’

This passage explains how it happened that Roger and his cousin never met till 1849. He was then about to leave Stonyhurst, and, from the expressions in these letters, I should judge that he was about to leave it permanently. He sent his boxes containing his books and Stonyhurst effects to Tichborne, which looks like a final departure from College. Writing to Gosford on the 28th of July 1848, he says:

‘Dear Sir,—I took the liberty of addressing two boxes belonging to me to you at Tichborne. I should be much obliged if you had the kindness to see that they are brought to Tichborne and put in a place where I shall be able to find them when I shall go to Tichborne. I shall leave College next Tuesday, the 1st August, for London.’

On the 4th of August he wrote to his mother:

‘Stonyhurst, August 4, 1848.’

‘My dear Mother,—I quitted College three days

ago: I came to pass few days with Mr. S. in London. I shall go off from London ve to join my father, who is in Clifton with r ther. I am delighted that my father allow to pass few days in London with Mr. Se I hope that I shall have the pleasure of payi a visit in Paris.’

You will observe that he never says ‘a fe but that he invariably translates *quelque* and leaves out the ‘a.’ At this time Mr. Tichborne was in England. He had spent time with Lord and Lady Dormer at Upto afterwards he took apartments at 12 Me place, Clifton. We find that Roger afte joined him there. In the mean time, some passed between Mr. James Tichborne an Tichborne, which are not unworthy of your tion. On the 5th of July, before Roger h Stonyhurst, he writes to his wife complai the unkindness of her letters, and vind himself from various reproaches, and t urges her very strongly to come and reside i land, arguing that Bath is a warmer and s sidence than Paris. On the 3d August he a letter, which has more immediate refere Roger than the last. It contains these pas

‘Roger was to quit Stonyhurst the day yesterday, and is now at Mr. Seymour's. I remain there in town 10 days, and will the and join me here. Early in September I take him over to Paris, and I hope you w sent to return to England with us. I f little disposed to take up my residence the I do not intend that he shall remain there

On the 17th, Roger, who had spent a w so with Mr. Seymour in London, went d join his father, and I must call your atten the circumstance that all the letters fr James Tichborne to his wife show that h was at Paris, and not with him at Clift this respect the defendant has made a most mistake; for in his examination he stat Roger Tichborne went to join his father a ther. Writing on the 17th of August 18 James says: ‘I have to announce to you t dear Roger arrived here quite safe and w terday afternoon.’

Now, observe this passage: ‘Mr. Seymo so kind as to go with me to the Comman Chief's office, and Lord Fitzroy Somerset' name the defendant had totally forgotten him hopes that he may get a cavalry com in about six weeks or two months' time, a delights him very much. You must recolle Roger is now in his 20th year, and that turning to College is out of the question; v the counsel for the defendant argued t though Roger did quit Stonyhurst on the August, he afterwards returned and staye a short time. There is also a letter fr James Tichborne to his wife, dated the August 1848, in which he speaks of the arm a good school for a young man like Roge tells his wife that he knows her hatred and dice against his family, and he says he l she would not have objected if it had be posed that Roger should enter the army of Austria, Sardinia, or France; but that Lis ing the army of his own country—Englan a crime she would never forgive. Mr. Jam borne and his son went to Paris and staye a few days about the middle of September then paid a visit to the Vicomte de Brimor Rheims. From Rheims they came back s to England by way of Boulogne, and on t

of October Mr. Tichborne writes from Boulogne, announcing that they had spent a week very pleasantly at the Vicomte de Brimont's. Meantime Roger had received from Lady Doughty a letter, which was unimportant, except for one thing. They were staying at the Bedford Hotel, Brighton, and it states among other things that Lady Theresa Deane was there. On the 27th of October Mr. Tichborne was at Upton, staying with Lord and Lady Dormer, and he wrote thus to his wife: 'I do not like to quit England till I know something positive respecting Roger's commission; but I tell you candidly, if he never gets it I shall not much care.'

This shows that the suggestion did not emanate from him that his son should enter the army. He goes on:

'However, as he wishes to go into the army, it may be advantageous to him. As to his returning to Stonyhurst, it is quite out of the question, and for this reason—in the first place, he is not of a studious turn of mind; and, in the second place, Roger is nearly 20 years of age, and you seldom find a young man at that time of life disposed to submit to the rules and discipline of a College life. I have pointed out to Roger certain rules and regulations as to his future studies, and he has promised to attend to them.'

He also asked her to come back to England, but she would not return to a country for which she had so little predilection. From Upton the father and son go on to Knoyle, where Roger receives a letter from his mother remonstrating with him for going into the army, and pressing him to go back to Stonyhurst, notwithstanding what the father had said. Roger replied as follows:

Nov. 11, 1848.

'My dear Mother,—There is a thing which you say in your letter which does rather surprise me, after all I heard you say a few years ago; it is the desire you express of my going back to College. You know very well that I am too old to go there again. You know very well that I should not learn much if I was to go there again. I should be very much obliged to you if you don't talk to me of it any more.'

This shows that he had a determination of his own which he intended to follow. In the same letter he refers to 'Mr. and Mrs. Seymour.' Observe the way in which this young man, writing to his mother, speaks of his grandfather and grandmother. So inflexible, so invariable, and so uniform was the habit of thinking, speaking, and writing of the Seymours as if no relationship existed. On the 13th of November 1848 he thus writes from Knoyle House to Mr. Gosford:

'I should be very much obliged to you if you had the kindness to send me the "Marveillaise"—it is among the papers I gave you at Upton to take home to Tichborne. I went out shooting several times, but the birds are so wild in this county that I have not been able to kill anything. I think I shall be able to go to Tichborne in about a fortnight, and for a longer time than I have ever been as yet.'

I do not say that going out shooting is a thing which would make a lasting and ineffaceable impression upon the young man's mind, but you must take it for what it is worth. It is clear it is a fact which the defendant either was never acquainted with or else had forgotten, because he stated he never went out shooting at Knoyle.

Here closes the year 1848 and the career of Roger Tichborne at Stonyhurst. I do not propose to go at present into the details of his Stony-

hurst life, though it may be necessary to go into those details afterwards with some degree of particularity, as you will have to form a judgment as to how far the knowledge or the want of knowledge exhibited by the defendant leads to the conclusion that he is or that he is not the Roger Tichborne into whose identity we are inquiring. But there are several things which we may take along with us before leaving this particular part of Roger Tichborne's life. How did he pass his time at Stonyhurst? Was it in the indulgence of mere unmixed idleness, or did he do his best to profit by the opportunity and to learn something? At all events, did he learn something? It is certain he acquired a decent knowledge of English. In spite of Gallicism and mistakes of grammar and spelling, he made considerable progress in English and in English writing. That cannot be doubted by any one who reads his letters. But his knowledge was not confined to English alone. He learnt some little Latin, though not much. We know from the evidence of Father Mann and of another Father who taught him English, that he also learnt from his reverend instructors a certain amount of Latin. No doubt it does not come to much. He was enabled, however, to construe passages from the first book of *Cæsar's Commentaries*. That, it is true, is an early school book, but it contains some puzzling passages, of which I myself have a painful recollection. Still he did for the first year work at his Latin, and though we do not know what occurred after Father Mann left at the end of Roger's first or second year, there is no reason to suppose he discontinued the study of that language. He also seems to have learnt a little of history. I cannot doubt he had some notion as to who Julius Cæsar, who wrote these *Commentaries*, was. The man who laid the foundations of the greatest Empire which ever overshadowed and ruled the world was not altogether beyond the range of Roger Tichborne's ideas. At all events, he knew very well that Julius Cæsar wrote in Latin, and not in Greek.

Again, he studied mathematics, and, I daresay, he did not get very far in them. But he got to the end of the first book of Euclid before the professor who was teaching him went away, and after that Roger Tichborne went through an entire year of his collegiate course, during which time, for aught we know, his mathematical studies were continued. No amount of mathematical teaching would have turned Roger Tichborne into a Senior Wrangler, and I don't wonder at his stumbling on getting to the foot of the Ass's Bridge. Many a man thinks he is capable of becoming a Herschel or an Airy until he arrives at the Ass's Bridge. It is one of the finest pieces of strict ratiocination that ever delighted the mind of a geometrician, and whoever has mastered it thoroughly can never regard it without reverence and delight as one of the masterpieces of the human mind. But many a man fails to get over it. Roger, it seems, failed at it; but he must have known very well what it was. Persons who fail to understand the problem have to assume the proposition which that marvellous piece of reasoning solves in order to deal with the further propositions to which it is necessarily a step. But as one of the professors told us, he did get on with the other propositions and went to the end of the book. He mastered, again, what I venture to say is an equally sublime piece of reasoning, whereby the square of the hypotenuse is shown to be equal to the other two sides of a

right-angled triangle. Roger became able to follow the reasoning and to make out that proposition from its premises to its conclusion. If you had asked Roger Tichborne when he went on board the *Bella* to prove that proposition, he could not have done it any more than he could have flown. Of the young men who pass a preliminary mathematical examination at school or college, ninety-nine out of every hundred, if asked in after-life to work out the propositions in the first book of Euclid, would be totally at a loss. I believe, however, that if you want to keep your mind alive to the true process of reasoning you cannot do better than go over them now and then. That is what I have constantly done. To work out the propositions of Euclid is a discipline for reasoning more efficient than any supplied by all the books of logic in the world. The question which you will have by and by to determine is whether Roger Tichborne acquired at Stonyhurst a sufficient elementary knowledge of mathematics to know what mathematical science meant, and what were the subjects with which it dealt.

Again, a learned Professor told us that Roger attended a course of chemistry at Stonyhurst. I daresay his knowledge gathered from these lectures was of the most elementary description; still a man does not go to a course of lectures on chemistry without carrying away some impression, at any rate, of the subject. Of all the sciences in the vast range of human knowledge there is none so fascinating as that science which seems to enable us to resolve the things of creation into their primary elements, and enables us again to combine those elements in new and fresh combinations. A man does not go to hear even the rudiments of that great science expounded without carrying away some knowledge of the subject-matter to which it relates, unless his memory has been most sadly and most disastrously troubled and disturbed. He does not confound a science which almost halves the mysteries of creation with the business of a man who compounds chemicals and prepares doctors' prescriptions. And yet this is the description which the defendant, when questioned in the Court of Common Pleas, gave of medical science.

But, according to the learned counsel for the defendant, Roger Tichborne acquired no know-

ledge of any sort at Stonyhurst. He passed his life there like a beast of the field, wallowing and grovelling in the lowest and most miserable sensuality—smoking and snuffing, and making occasional pilgrimages to Preston. He became debased, demoralised, lost in body and in mind. That is the account, and the alleged reason is that he was allowed by the authorities at Stonyhurst to indulge in continual idleness and the gratification of these bad habits and vicious propensities. The Jesuits taught no morals; they did not want their youths to grow up in habits of morality, virtue, and honour. They wanted them to be men with the minds of women. Vice is the foul accusation which has been hurled against the authorities of Stonyhurst. I am no friend of the Jesuit Order. I believe that their principles and their purposes are inconsistent with the freedom, moral, intellectual, and religious, of the human mind. But to say that this Order—which, whatever may be its merits or demerits, has done so much for the furtherance of education, and for which literary men ought to feel grateful to it—to say that this Order would use the opportunity of demoralising the youth committed to its charge, and that it would do so for the purpose of those abominations to which the learned counsel referred, is in my mind one of the most hateful, most unfounded, most abominable, and most fearful accusations that ever were brought before against a body of men. Moreover, there is not the slightest shadow of a foundation for it. All that the learned counsel can point to is a foolish habit they had of mutilating the plays which were acted in the College. They omitted some scenes, and by some *hocus-pocus* converted the relations between men and women into relations of a different kind. Because there may have been left in some of these plays a passage which the Fathers in their fastidiousness or sickly sentimentality thought a little too strong for the ears of some delicate young lady, because something of that sort dropped from the lips of the Rev. Father Fitz-Simon, the learned counsel asks you to believe that these dramas were converted into something of a totally different character and of a nature too terrible to contemplate. I never heard of such an accusation before, and I trust to God I never shall hear such another.

SECOND DAY, Friday, January 30, 1874.

Gentlemen, we arrived yesterday at the close of Roger Tichborne's career at Stonyhurst, and it strikes me that it would be convenient to divide the life of the undoubted Roger into five leading epochs. Firstly, his life in Paris until he attained the age of between 16 and 17; secondly, his life at Stonyhurst, extending from the middle of April 1845 until the end of July 1848. With these two epochs we have already dealt—sketching merely the skeleton of the events of his history, the details of which I shall have more elaborately to fill in when we come to try the recollection and knowledge of the defendant with reference to the events of those periods. The third epoch—and it is by no means an unimportant one—is comprised in the twelve months during which he applied himself to prepare for the military service. That will bring us to the end of October 1849. Then we have the fourth—his life in the army—extending from his entry in October 1849 down to the time of his quitting the army at the commencement of 1852. *We can subdivide this epoch into two periods—that portion of the time during which he was*

quartered in Ireland, and next that portion of the time during which he was stationed at Canterbury. And then we have as the last epoch the time which passed from his quitting the shores of this country, in the month of March 1853, down to the time of his going on board the *Bella*, which ill-fated vessel, as we know, foundered. I think it is desirable to keep these epochs distinct. We are now entering upon the third of those chapters—if I may so say—of the history of Roger Tichborne.

We left him at Knoyle, where he had written the remarkable letter to his mother of the 11th of November, in which he rejected her proposal and thoroughly refused to entertain the idea of returning to Stonyhurst. When he left Knoyle he went to Tichborne, and Tichborne became his home from that time till the 9th of August 1849. It was during that interval that he prepared himself for his examination preparatory to entering the army. Early in the year 1849 he made two visits—one to Bilton Grange and the other to Bath. But before he left Tichborne he wrote a letter to his mother, which I think is worthy of your consideration. It

has been said that his life was spent in utter idleness. That was first stated by the defendant himself. He said that from the time he left Stonyhurst down to the time he left Tichborne he spent his time in field sports, and in other amusements of that kind; that he never studied, as he had too much of that at Stonyhurst, and never gave himself to it again. From this letter you will hear Roger's account of his occupation. It is as follows:

'Tichborne House, Jan. 1, 1849.

'My dear Mother,—I must apologise for having been so long in answering your last very kind letter, and in wishing you a happy new year. I wish you as happy a new year as I can, and which will be followed by many others. I am very much obliged to you for the very kind offer which you made me of sending me some money if I had spent the one which you were so kind as to give me when I was in Paris last. I must say that I have spent nearly all. I should be very much obliged to you if you had the kindness to send me some more; but I should be very much obliged to you if you don't speak of it to anybody. I pass my time here in a very pleasant way. I go out riding nearly every day, and walking. I read instructive books. I read nearly all that book which you gave me, and which is called—I don't remember the name of the book at present—but it is the one which is written by Monsieur de Chateaubrian. [That celebrated author's Itinerary from Paris to Jerusalem.] It is very interesting indeed—the description which he gives of the Holy Land is very interesting. There is only one fault which I found in it; it is that he makes the preface so very long. I should be very happy if you had the kindness to send me the life of Louis 16. I am sure that it must be a very interesting book. I have not received a single letter from L'Abbé Salis since I left Paris. I have forgotten his direction, otherwise I should have written to him. If you see him, will you mention it to him, and remember me most kindly to him. It is not necessary that you should mention this letter, because I am going to write to my Father.—I remain your very affectionate and dutiful son, R. C. TICHBORNE.'

That letter would seem to me to show that his life was not a life of idleness and search after amusement such as has been represented.

As I have said, early in that year he made two visits, which have been made the subject of questions to the defendant, and which, therefore, we should notice. The first was to Mrs. Washington Hibbert at Bilton Grange. There he spent a fortnight. The house was full of company, and Mrs. Hibbert took the opportunity of persons likely to look after him in Dublin: among others, that of Lord and Lady Howth and their daughters, and their son, Lord St. Lawrence; and we know he visited them afterwards at Howth Castle. Mrs. Hibbert also gave him letters of introduction to Lady Clanricarde, and to other persons of distinction in Dublin. After spending a fortnight at Bilton Grange, he proceeded to Bath, where his uncle Robert was living. Sir Edward and Lady Doughty and their daughter had come there on a visit to Sir Edward's brother—Mr. Robert Tichborne. Mr. and Mrs. Nangle and their daughter and sons were also stopping at Bath. On that occasion one or two things occurred, not very remarkable, but which might leave a lasting impression on the memory of Roger, or they might not. That is a matter for you to judge of.

Sir Edward Doughty, whose presence at Bath the defendant was ignorant of, met with an accident. Mr. Robert Tichborne gave a ball, and Sir

Edward Doughty, although very infirm, came down-stairs to be present at it, but in coming down he had a heavy fall, which alarmed everybody. Fortunately, he was more frightened than hurt, but still it was a circumstance that might be remembered. There happened another interesting circumstance on the occasion of the ball—the wife of the butler, Allen, was brought to bed of twins, and that fact produced a considerable sensation. It was a question whether the ball should go on, but it did. Another little incident happened also. It seems that young Mr. (now Major) Nangle and Roger had been out one evening—I suppose dining—and as they came home they saw the Town-hall brilliantly illuminated. They asked what was going on, and were told it was a tradesmen's ball. These two young fellows thought that as dancers their society would be agreeable, but on applying for admission they were told, 'You do not belong to us;' and not having tickets or invitations they were very properly refused admittance, and it was the subject of a laugh against them. That is a circumstance, again, which would be likely to make an impression on the mind of a man. Well, on this same visit Roger was thrown a good deal into the society of young Mr. Nangle. Among other things, Major Nangle tells us he was at that time courting the lady to whom he was afterwards married, and that he made a confidant of Roger. The defendant was very much pressed as to whether he rode over to the house where the lady lived. He denied having done so, and the Major was not in a position to say that he had, but no doubt he made him his confidant with respect to his hopes and expectations. So much for the visit to Bath. Evidence has been brought before you that on this occasion Roger was in a dog-cart with Mr. Spurling, and that it got upset; and further that the chambermaid saw the peculiar formation of the thumb while he was washing his hands, and also observed that he was devoid of tattoo marks on his left arm. The date of that was, however, fixed in March rather than in April, and I can find no trace of a second visit to Bath after his return on the 6th of February. He returned to Tichborne on that day, and remained there until the 9th of August, and we have Lady Doughty's letter to him, in which she speaks of his eight months' stay.

It was about this time that he began to apply himself seriously to the studies necessary to enable him to enter the army. A new regulation had been introduced, requiring candidates for commissions to pass examinations. It was thought desirable to raise the necessary standard of education, not that men should speak this or that language or know thoroughly the events of history in order to become better soldiers, but on the well-found presumption that the more intellectually developed a man was the more fit he would be for any professional calling. It was not exactly known at that time whether mathematics or arithmetic would hold a place in the examination. It was possible that both would; but, in all events, it was expected that some proficiency in mathematical science would have to be shown by a candidate before he could enter the army. Upon the first occasion Roger was examined in arithmetic, and he failed, probably because he had paid less attention to it, and more attention to mathematics. But it is a circumstance to be taken into consideration that, from the early part of 1849 down to the time of his examination, he was studying mathematics. Mr. Gouford tells us that he used to sit in his office, and work out problems, a number of which remained for a long

time among Mr. Gosford's papers, until, being deemed useless, they were swept away; and that shows the diligence of Roger in preparing himself in this department. As the time drew near he appears to have resorted to a Mr. Moberly, a clergyman living at a place which is written *Owlesbury*, but which is pronounced 'Uslebury.' He was in the habit of going over twice a week to this place to take mathematical lessons, and, of course, going there twice a week for the purpose of taking lessons, even if he forgot the name of Mr. Moberly, the defendant, if he were Roger, would recollect the name of the place; and when he was asked if he had taken any lessons of any one at *Owlesbury*, I should have thought he would have known what the counsel meant. I have a letter here, which he wrote on the 7th of June to Mr. Hopkins, shortly before he got his commission, in which he says:

Tichborne Park 27th June 1849.

'Dear Sir,—I am very sorry at not being able to go to Alresford at half-past 2 as I intended to do. I have a Mathematical lesson and I must go there 6 miles. By those means I am sorry to say I shall not be able to have the pleasure of seeing you to-day. But if it is convenient to you I should be happy if you allow me to go to Alresford to-morrow at half-past 11 to have the pleasure of seeing you.—I remain Dear Sir truly Yours
R. C. TICHBORNE.'

It appears, too, from further evidence that Roger Tichborne was at that time working at mathematics.

We now come to an event of Roger Tichborne's life which certainly is remarkable. The application was made in November 1846 by Sir Edward Doughty to the Horse Guards for a commission in the army for his nephew. Mr. Seymour took him to the Horse Guards, where they saw Lord Fitzroy Somerset, and there they reminded him of the promise he had made, and pressed for the commission. Lord Fitzroy Somerset gave an assurance that the commission would be forthcoming before very long. Several months, however, passed away, and in June Roger Tichborne began to get impatient to obtain his commission, and he took the bold step for so young a man of writing himself to Lord Fitzroy Somerset for his commission, instead of asking his uncle to write. Most young men would be far more likely to say to their uncle, 'The commission has not come; would you write and remind Lord Fitzroy Somerset?' But Roger Tichborne writes himself on the 19th of June:

Tichborne Park, June 19, 1849.

'My Lord,—I must apologise for the liberty of addressing you this letter. But what makes me take such a step is that I am likely to be obliged to go abroad before long. It is for that reason that I should be most obliged if your lordship had the kindness to let me know if there is any hope of having my commission before long.—I remain, my lord, respectfully yours,

'ROGER CHARLES TICHBORNE.'

This bold proceeding proved successful, for on the 21st of June he received the nomination, which he thus acknowledged:

Tichborne, June 21, 1849.

'My Lord,—I received the nomination which your Lordship was kind enough to send me this morning, and for which I am very thankful. I shall be at the Royal Military College on the morning of the 2d July to pass those examinations which are required of me for my admission in the army.—I remain, my Lord, respectfully yours,
ROGER CHARLES TICHBORNE.'

On the same day he wrote to Lady Doughty informing her of the result of the examination:

Tichborne Park, June 21, 1849.

'My dear Aunt,—I wrote to Lord Fitzroy Somerset about my commission, and to my great surprise I received my commission for answer by return of post, which was this morning. I am named cornet in the 6th Dragoon Guards, on condition that I shall pass my examination at the Royal Military College, at Sandhurst, on the 2d of July 1849. The delay is very short, which will oblige me to study night and day till that time.'

Lady Doughty replied congratulating him on his success, advising him to study, but not so as to injure his health, and inviting him to pass some time at Tichborne. The news of his obtaining the nomination reached Paris, and how it was received there we are enabled to judge by a letter from Mr. James Tichborne to Lady Rawlinson, stating that he was delighted at the prospect of Roger entering the army, but that the idea was exceedingly displeasing to his mother, who was vexed with him for having given his consent to Roger doing so. Roger afterwards refers to this in one of his letters as 'the great blow up that took place' on his entering the army.

Well, the examination at Sandhurst was to be held almost immediately, so his father writes to one of the Colonels Greenwood, asking him to accompany Roger to Sandhurst on the occasion, for he naturally thought that a man who spoke English imperfectly might have a better chance if he were introduced by some English officer or gentleman of standing. Colonel George Greenwood undertook this task. They went, he and Roger, on Sunday, the 1st of July, to Sandhurst, in order to be ready for the examination next day. When they got to Sandhurst so many young men were there waiting for the examination with their friends that the hotel was found to be full, and they could not get accommodation. The colonel and his protégé had then to go back to Farnborough, and dine and sleep at a little country public-house, near the railway station, called the Tumble-Down-Dick. In the mean time Mr. Danby Seymour had come down to see if he could help Roger, but finding Colonel Greenwood there he simply dined with them, and returned to town the same evening. The next morning Colonel Greenwood and Roger went to Sandhurst and obtained lodgings at the Duke of York Inn, and the place being very full, Colonel Greenwood gave permission to any of the other guests to breakfast in his room, and two availed themselves, as you know, of the invitation. Questions have been asked on those details of the defendant, and you will find that his knowledge, or want of knowledge, of them is important. Roger was examined and passed in history, geography, and in fortifications. He appears to have done well on the subjects in which he passed, as they granted the commission and gazetted him subject to his passing a further examination in arithmetic. It is necessary to remember that Roger and Colonel Greenwood left Sandhurst immediately after the examination, and returned to Hampshire that night, the examination only lasting one day. The next day Roger returned to Tichborne, whence he wrote to Mr. Seymour the following letter:

Tichborne Park, 3 July 1849.

'Dear Sir,—I am happy to inform you that I have passed my examination yesterday at Sandhurst. I have answered to every question which they asked me in all the different branches of study which they required me to know for my ad-

mission in the army. All the professors signed a paper which proved that I knew well what they examined me upon. That paper was sent to the Horse Guards, and the report is to be made to-day. I was told by the colonel who examined me on Fortifications that I would be upon the Horse Guards in the course of this week.

It turned out that he was mistaken as to having passed in arithmetic; but, either from having done so well in the other subjects or probably from having obtained a certificate as to his progress in mathematics, the second examination was dispensed with, and he was gazetted. He had given up his country tutor, Mr. Moberly, and came to London to obtain the benefit of a master in town—not, however, bear in mind, with a view to his examination at Sandhurst, for that was already over. Before going to town he wrote a letter to his uncle, Henry Seymour, which runs thus:

‘Private.

‘Tichborne Park, 25th July 1849.

‘My dear Henry,—I received your very kind letter yesterday. I was very happy to learn by it that Mr. Seymour was better. I read also with attention what you answered to my letter about my outfit. I perfectly agree with you that there is more time than is wanted to get it all ready. (Don't mention a word of what I say to anybody), but the reason why I wish to be measured before my father comes over to England is this. My Father, as you know, is so very changeable that perhaps my mother, who is not in the least partial to my getting into the army, what I fear, for those reasons which I have just explained is this, that if she gets again the upper hand over my Father, she will make him change; and if I am measured for my outfit before he comes to England there will be no drawing back. These are my reasons for wishing to go to the Tailor so soon. For my horses, I was advised to get them in Dublin for this reason, they are entirely under the commanding-officer's examination, and if he does not like them he may oblige me to buy some others. It is for that that I am going to write to the Colonel of the 6th Dragoon Guards to get advice and to know what is best to do. Sir Edward and Lady Doughty charged me to tell you that they will be very happy to see you from this time to the 7th of August, and that the sooner would be better.—I remain, My Dear Henry, truly yours,

‘R. C. TICHBORNE.’

He then comes to London and stays at the house of Mr. Seymour, in Upper Grosvenor-street. Now, to show that he was quite aware of the name of Mr. Moberly, the gentleman who instructed him, and of the place where Mr. Moberly lived, I turn to a letter written from Upper Grosvenor-street to Mr. Vincent Gosford on the 10th of September, which is as follows:

‘39 Upper Grosvenor-street, 10th Sept. 1849.

‘Dear Sir,—I should feel very much obliged to you if you had the kindness to ride or send a note to Mr. Moberly, at Owsbury, to let him know that I don't intend to take any more lessons from him at present. What makes me write to you about it is that I have received letters from him to let me know that the time of joining my regiment is close by, and that I ought to study. I am going to write to him that I am studying in London, and that I cannot go to him at present.’

You may have by and by to judge whether, if the name had been submitted to Roger Tichborne as the place to which he was in the habit of riding six miles to receive mathematical lessons, he must

not have known that, although the name was written Owslesbury, it was, in fact, the place known in the country as Usselbury. Well, being in London, he got a letter from Lady Doughty, which shows very plainly how long he had been staying at Tichborne by speaking of the ‘eight months’ during which she had been ‘habituated to see him;’ and she says, ‘If it would give you a little self-love or self-esteem—both of which you require—I would tell you how very much you are missed by us all.’ After the character you have heard given to Roger Tichborne, it is, I think, important to observe with how much tenderness, affection, and even respect his relatives wrote to him. The letter runs thus:

‘Tichborne-park.

‘My dearest Roger,—Your uncle was much gratified by hearing from you so soon, and I am delighted you thought of writing to him. If it would give you a little self-love or self-esteem—both of which you require—I would tell you how very much you are missed by us all; for my part, eight months has so habituated me to see you that the loss of you to tease or scold, together with my child being established in the school-room, makes me feel quite *désœuvré*, and the riders missed you sadly. We shall pass through town next Wednesday, and embark at St. Katharine's Wharf that evening for Scotland. We shall reach Edinburgh on Friday. We shall remain there some weeks, but return at the end of September to receive your father. Your uncle desires me to say he should be glad to see you if you will meet us at the station between then and embark, only we must find some hotel to dine in. Perhaps you would inquire what hotels. Come and meet us. Adieu! Love from us all.—Your affectionate aunt,

‘K. DOUGHTY.’

In accordance with this invitation Roger met them, and on that occasion Roger made a communication to his aunt. He took the opportunity of that short meeting to whisper a word in her ear which is associated with the one romance of Roger's life—I mean his love for his cousin.

Miss Doughty had returned to Tichborne from her convent-school-life at Taunton for the summer vacation of 1849 while Roger was staying there. The two cousins had only met for three or four days at Bath at the commencement of that year. Before that time they had not met for many years, owing to the different periods of their respective vacations; but in June 1849 she came back to stay permanently at Tichborne,—at least it was so intended, and Roger fell in love with his cousin. Perhaps it was only at this time a nascent affection, but the first germ of it was laid in his heart and never left it, and we trace it to the last hour of his undoubted life. It appears that he made some communication to Lady Doughty under the seal of the most profound and entire confidence and secrecy. I shall have to trace this passion of Roger Tichborne's throughout his whole career. It seems one of the most remarkable and important portions of this inquiry, and is one of the most material topics we have to deal with, and a crucial test as to the identity of the defendant. At this time Lady Doughty does not appear to have discovered it, but in the progress of time she conceived a different view from that which she may at first have entertained. She may have vacillated backwards and forwards. That she sometimes thought of the possibility of a union between her daughter and her nephew, and that at other times her mind revolted from it, seems to me pretty clear from the correspondence. There were matters which

undoubtedly tended to make such a thing desirable. There were other considerations which tended in a contrary direction.

In the first place, in a worldly point of view, the match was all that she could desire for her daughter. Miss Doughty by marrying her cousin would become the matronly head of the old house of Tichborne. She would be the mistress of Tichborne, with all the advantages which that position would give. She would be the wife of a man of large and ample fortune, so that in a worldly point of view nothing could be better. Moreover, it is very plain from her letters that in many respects she admired and esteemed Roger. It is quite clear beyond all possibility of doubt that she loved him with the most sincere and motherly affection. But then there were considerations operating in the opposite direction. In the first place there was that one of consanguinity. Many persons regard the marriage of first cousins as objectionable, on the score of too great propinquity in the matter of relationship. But to Roman Catholics this applies much more forcibly than it does to those who are not members of that religion, because, although there have been dispensations granted, it is a union which the Roman Catholic Church discountenances and discourages. Then, again, Lady Doughty knew perfectly well that this was an opinion which was strongly entertained by Roger's uncle, and in which, as she believed, Roger's father would share. There would therefore be considerable obstacles in the way of such an union.

But, unfortunately, there was a still more cogent reason operating upon her mind to make her very reluctant to encourage this attachment, and that was that she saw in Roger Tichborne that which she believed to be the germ of evil. She knew that he was in the habit of reading bad books—books of an abandoned and disreputable character—and it had been whispered in her ear that Roger was not a paragon of virtue. I do not believe that Roger was a whit worse than half the young men of his own age; but it is a mistake to suppose that he was that impersonation of immaculate purity which when the occasion required he was sought to be represented. Lady Doughty had got the notion that Roger was not as strict in point of morals as a young man ought to be, because a lady like Lady Doughty, unacquainted with the ways of the world, would be very much shocked at any departure from the strict rules of moral propriety.

But her objections did not stop here. We know very well what college life and military life is in that respect. But young men sow their wild oats, and they settle down into the calm of domestic life and happiness, and everything goes smoothly and well, although in early life they may have been somewhat wild. But there is a vice which when it takes possession of a young man is very seldom shaken off, and that is the vice of intemperance. And Lady Doughty saw this tendency in Roger Tichborne. I think it has been grossly exaggerated in the course of this case. It has been implied, if not asserted, that Roger was an habitual drunkard—that he destroyed his health and weakened his mental powers by giving way to that degrading vice of drunkenness. But Roger was not an habitual drunkard. I do not suppose he drank more than would 50 or 60 years ago have been considered a social virtue. With our forefathers the more wine they drank without falling under the table the greater was their social merit; but now every one who takes a little more than what is allowed by

the ordinary social standard is looked upon as a lost man. Now, Roger was a person of a sluggish and inert nature, physically and mentally. His physical strength had been drawn away by the abominable seton, and by the pernicious practice of bleeding, which I am happy to think is now gone out of fashion. He was subject to fits of despondency. Instead of looking at the cheerful and bright side of things he rather contemplated the dark and gloomy side of life and its surroundings. But when he took a little wine he found himself in lively and good spirits, and was induced to take more than was good for him; once or twice, and only once or twice, he exhibited the effects of over-indulgence, and Lady Doughty saw it. There is, of course, nothing a mother would shrink from with greater abhorrence than the idea of uniting her daughter to a man who was or had the disposition to become a drunkard. Nothing so degrades or debases a man. Nothing has so great a tendency to make domestic life miserable and the wife and children unhappy as that the husband and the father should be a drunkard. She shrank from the thought, but Roger's protestations of reform were so strenuous and apparently so sincere that her disposition to put an end to the attachment gave way, and she still considered the union as possible.

I am not sure whether she was not playing a little with Roger, for a very honest and legitimate purpose, but still in a manner which was not quite candid. She had a dread of his weakness, but he was the hope of the family. He was the future heir. He was the one to whom they all looked as the future head of the Tichborne family, who was to perpetuate the race. There were but two left, himself and his brother. If they failed the name of Tichborne was extinct. If Roger, the elder of the two, went to India, there was the possibility of his being engaged in warfare, and the certainty of his being exposed to the dangers of the climate, and the thought may have struck poor Lady Doughty and his other relations with horror. She on more than one occasion suggests that as a reason why he should not go with his regiment to India, and that if he was ordered there he should exchange into another. She puts it to him that he is capable of creating an attachment and that he might form a union—pointing, I cannot help thinking, plainly to her daughter—by means of which, instead of exposing his life to the dangers of a foreign climate and the chances of war and battle, he might lead a happy and domestic life in the old halls of Tichborne, surrounded by every means of enjoyment in this world. I cannot help thinking that Lady Doughty did to a certain extent use that topic for the purpose of keeping Roger Tichborne in England without having altogether made up her mind to permit the marriage or to use her influence with her husband to consent to it. The matter, however, was brought to a crisis by the visit Roger paid to Tichborne in 1851, and which extended to January 1852. But all that matter I shall have to deal with by and by. I have only given an outline of what I conceive to have been the weakness of Lady Doughty's mind in the earlier period in order that when I come to give you the letters more in detail you may be able to see whether your judgment goes along with mine as to the motives by which she was actuated, and what were her intentions in writing those letters.

Gentlemen, there is another subject which arises in dealing with the same period; yet it is one of equal importance as a test of the defendant's iden-

tity, and it is that which relates to the estates of Tichborne and Doughty. In Roger Tichborne's time vast and important changes were introduced into the disposition of the family property; in those changes Roger Tichborne bore a prominent part, and the question will be whether, in what Roger Tichborne did in the alteration of the legal position of the estates, he was a passive tool or an intelligent actor. If he understood all that was done by himself in respect to these alterations, which were carried into effect, Roger Tichborne, I apprehend, could not have possibly forgotten what he then did. You will have hereafter to consider whether the defendant, who was asked as to what was done with the property, had the most remote conception of what was the state of the Tichborne or of the Doughty property. If you think he had a fair knowledge, I cannot conceive anything which ought to weigh more strongly in his favour, provided always that you should be satisfied that this knowledge was the genuine reproduction of his own mind, and not derived from extraneous sources. But if, on the other hand, you come to the conclusion that he knew nothing of the disposition of the property, it would, in my opinion, be equally strong, unless you come to the conclusion that this is a matter which, as was urged on his behalf, a man could possibly have forgotten. It would, it seems to me, be one of the best and most practical tests which could be found.

Let me give you a short account of the property as it stood at that time. Roger Tichborne came of age on the 5th of January 1850, and upon his coming of age a settlement of the Doughty estates could be effected. What I want you to consider is, how far Roger Tichborne was, as I said, a passive tool or an intelligent actor in that which was about to be done; but in order that you may be able to form a sound judgment on that point, it is necessary that I should tell you what he did, and in order to make it intelligible you must be made aware of what was the state of things prior to Roger Tichborne being called upon to act. The property to which the heir of Tichborne would be entitled consisted of two estates, estates acquired and held under different titles. In the first place, there was the old Tichborne property, which had been in the family from generation to generation; and added to the Tichborne property were two other estates, one of which had been recently bought—that was Old Court, at Prior's Dean, and a place close to Tichborne called White-ears. Now an estate may be held either in what is called fee-simple, in which case you have absolute power of disposition, or it may be entailed; that is to say, that although you may have the present enjoyment of it, it is not in your power to prevent the title to and possession of the estate going to the person upon whom it may be settled. You have an estate conveyed to you, and to the heirs of your body. You cannot, without first getting rid of the entail, dispose of that property to the prejudice of those who are in the entail. But you may get rid of the entail by a certain process which law has recognised and established. In order, however, to do that you must be in a certain position. If you are tenant-in-tail in possession, you may, by a disentailing deed, get rid of the entail and liberate the estate altogether from its operation, and so convert that which was an estate tail into an absolute estate in fee-simple. In that way you dispose of it. But suppose you are not in possession as a tenant-in-tail, but you have what is called the 'remainder'

in you; that is to say, that upon the expiration of the present estate the estate will be yours in possession, then, if the two parties concur—the man who is at present in possession, and the man who has the remainder, and who will come into possession at the expiration of the present estate—between the two they may execute concurrently a disentailing deed and resetttle the estate.

The two estates of Tichborne and Doughty stood, in this respect, upon a different footing. The Tichborne estate was limited; first to Sir Edward Doughty for life, with remainder to the heirs of his body in tail; then came Mr. James Tichborne for life, with remainder to his eldest son—not in tail, but for life—with remainder to the heirs male of the body of Roger Tichborne in tail. So that you see Roger Tichborne's father having only an estate for life, and Roger only an estate for life, they were neither of them in a position to bar the entail of the property. Roger Tichborne would not, therefore, be able to get rid of the entail of that estate until such time as he himself should have a son who should attain the age of 21, when he might do so concurrently with such son. When Roger Tichborne had a son who attained that age, if that son concurred with Roger as a tenant for life to bar the entail, they could execute a disentailing deed, and get rid of it. But as things stood, Roger not being married, and having no children, and having only an estate for life, he could not do so, and Tichborne could not be touched. There was no power to enable anybody to get rid of the entail of the estate. Now the Tichborne property was heavily charged. A settlement was executed, under the limitations of which the estate stood as I have described, but in that settlement the estate was charged with heavy encumbrances. First, it had been charged with 24,000*l.* for the benefit of Sir Henry Tichborne's daughters, and then with an additional sum of 32,000*l.* There was only power to charge the Doughty property in the sum of 8000*l.* for Miss Doughty's benefit, and 8000*l.* would be a very inadequate dowry for the only daughter of a man possessing an estate worth 15,000*l.* or 20,000*l.* a year. Sir Edward, then Mr. Doughty, was able, however, to make suitable provision for his daughter in another way. It seems that, in some prior disposition of the Tichborne property, whereas it was intended there should be a remainder to Sir Edward Tichborne, not in tail, but for life, by some mistake of the conveyancer he was made to take the estate tail in remainder; and the effect of that would have been this: that as soon as he came into possession he could disentail the Tichborne property and dispose of it as he pleased, and if he thought proper, instead of allowing it to go, as it always had done, with the Tichborne title, he could have given every stick and stone of it to his daughter. But he did not desire to do anything of the kind. All he wished was to make a fair provision for his daughter. His power was limited by Miss Doughty's will, and he could not charge more than 8000*l.* to the Doughty estates. But, by a fresh settlement executed between his brother and himself, they could get rid of the entail and agree to charge the Tichborne estate with such a sum as should make up what would be a competent and proper provision for Miss Doughty. The whole of the Doughty estates would come into the possession of the future heir of Tichborne when he came of age, and a resettlement of the Doughty estate

could be made, when a charge might be put upon it to liberate Tichborne.

A Juror.—The rental of Tichborne was not, I believe, more than 5000*l.* a year.

The LORD CHIEF JUSTICE.—Yes, the effect would be very grievous indeed on Tichborne, because its whole rental would not exceed 6000*l.* a year, and an encumbrance of 50,000*l.* is a very heavy charge indeed on such an income. But then by a resettlement sufficient could be taken from Doughty to set Tichborne free, and the scheme was, when Roger came of age, to disentail the Doughty estate and to sell as much as would raise the sum they afterwards did raise. It occurred to the brothers, and very wisely, I think, that two family seats were one too many, and that Upton was an encumbrance. The old ancestral seat where the family had lived for many generations was Tichborne. It was there where they were known as one of the most distinguished families in Hampshire, and where they were of consequence. Except for their money value, what to them were their estates in Bucks, in Lincolnshire, in Suffolk, in the neighbourhood of Gray's-inn-lane, and in Dorset? The scheme, therefore, was to sell Upton and everything belonging to it, and other property belonging to the Doughty estates, or, by mortgage, to raise the sum to one sufficient to set Tichborne free. This was a very sagacious and taking scheme, and those who proposed it—and at the bottom of it was Mr. Hopkins, the old family solicitor, who knew everything about the property—thought it might be easily done. The estates, by the will of Miss Doughty, were settled upon Sir E. Doughty for life, and he having no son, on Mr. James Tichborne and the heirs male of his body. The heir male of his body was Roger Tichborne, and the moment he came of age a resettlement was possible.

On that period approaching it was proposed to carry into effect what the father and uncle had had in their minds ever since the settlement of 1844. Mr. Hopkins, who propounded this scheme, took it for granted that there would not be the slightest difficulty with Roger Tichborne, and that he would enter into the scheme, and give his ready acquiescence to what was proposed by his father and uncle. But they were all three mistaken in the young man. Roger Tichborne was not a person to be dictated to in a matter of that description, and, having conceived in his own mind a totally different scheme, he persisted in it, and carried it out. He had it in his mind to create a second family which should owe its weight and position and estates to him. I do not know whether he had got a notion that 20,000*l.* or 25,000*l.* a year was too much property for one person, but it is quite clear that, from the earliest time at which he could form a judgment and intention upon a matter of that kind, he had made up his mind that Upton should become the seat of a second family, with one half of the estates, or thereabout, appropriated to that particular branch. If he lived, of course, he intended that he should have the enjoyment of the whole undivided property; but he made up his mind that Upton should not be sold, in order that when he died, if he had a second son, Upton should be the seat of the second family. He had made up his mind that if he had not a second son, the same thing should be established with reference to his brother Alfred. He had that in his mind as the scheme which he would afterwards carry into execution, but he did not communicate it to anybody. He kept it locked up in the recesses of his own breast until such time as

the scheme was ripe for execution. But when Mr. Hopkins proposed to disentail the Doughty estates and resettle them, and so acquire the power to sell Upton, together with such other property as might be necessary for raising the sum to free the Tichborne estate, he resolutely resisted the proposal. I want you to follow me in these letters in order that you may be able to satisfy your minds whether in this resistance, and whether in what Roger Tichborne afterwards did in respect of the settlement of the Doughty estate in 1850, and in that far more important document, the will which he made in 1852, he was a passive instrument, or whether he was acting on his own judgment, by virtue of his own intelligence, understanding everything that he was doing.

It has been suggested on the part of the learned counsel for the defendant, with a view to cover the ignorance—I cannot mince the matter—I must call it the absolute ignorance exhibited by the defendant as to the disposition of this property, that Roger Tichborne was merely a creature of Mr. Gosford. There are very strong reasons, I think, for coming to a very different conclusion, inasmuch as it seems to me very plain that Mr. Gosford's interest was to keep the property together, so that his stewardship should not be divided. But, quite independently of any such consideration, I want you carefully to follow these letters so as to be able to form your own judgment whether or not Roger Tichborne did not take the utmost pains to make himself perfectly master of the subject, and exhibit a firm resolution not to be hurried on to any step of so serious a consequence; and whether, before he finally executed an instrument which in the event of his death would be irrevocable, he did not do his utmost to master the details of the instrument he was asked to execute. When I come to show you by and by what the defendant has said upon the subject of the disposition of these estates, whether under the settlement of 1844 as regards the Tichborne property, or that of 1850 under the will of Robert Tichborne with respect to the Doughty estate, you will see the infinite importance of the inquiry I am to propose to you—namely, whether Roger Tichborne did or did not understand the meaning of the various proposals for their disentailing and resettlement. When Roger came up to town on the 9th of August to pursue his mathematical studies, Mr. Hopkins was quite surprised and staggered to find the resolute position which he had taken on the subject. He writes the following letter to Mr. Hopkins:

*'39 Upper Grosvenor-street,
London, August 18, 1849.*

'My dear Sir,—I have not been able to answer your letter yesterday, as I wished it at first. I have been very busy all day long yesterday, so that I had but little time to myself. I am sorry to see by your letter that the conversation which we had on Wednesday embarrasses you so very much about the Doughty estates. I refuse, that is true, to give a definite answer before I come to 21, but at the same time I cannot help thinking, when I think of what those papers which you were so kind as to send me, and which I read with much attention, that many of those papers which are to be drawn could be drawn during this time and next January, as they are relative to family settlements. I hope that you will excuse my not writing a longer letter to-day, it is nearly 5 o'clock; but on Monday I will make it a point to write you a longer letter.—I remain, my dear Sir, truly yours,
R. C. TICHBORNE.'

Mr. Hopkins appears to have written again on

the subject, for in three days after comes the following:

'London, August 21, 1849.

'My dear Sir,—I was not able to give my letter all the extent I could have wished, for want of time. I should be sorry that my too long a delay should trouble you in the least to know what answer to make to my father. I shall be of age in four months and a half, and I ask that time to be able to make up my mind in such a way that later in life I may not reproach myself to have acted without having thought well about what I was to do.'

In the meantime Lady Doughty and her party went to Edinburgh, and we have a letter from her which shows that Roger Tichborne was not addicted merely to French novels, nor did he take up his time in hunting or shooting; but he read works of the highest kind of literature, among which was Molière's celebrated play, the *Misanthrope*. He had sent Lady Doughty the book, no doubt; for she makes some observations on the two leading characters of the piece, one of whom is a man of the world, who looks on everything from the pleasant side, and who accepts the conventional views of social life as by no means contributing to vice or folly, but to the general enjoyment and happiness of mankind. The other is the morose rigorous moralist, who looks upon everything from the dark side, and can see nothing but folly and vice in his fellow-men, and thinks it better to shun society than to seek its enjoyments. Roger professes to be of the latter rather than the former character—like Alceste rather than Philinte, taking a gloomy view of life and a desponding one of his own position. Lady Doughty, for her part, gives expression to the opposite view, and talks of resuming the discussion in 'the smoke-dried' room at Tichborne. Then comes a letter to Mr. Gosford on the subject of the settlement of the estates:

'London, August 24, 1849.

'Dear Sir,—Mr. Hopkins wrote me a few days ago to tell me that he wished me to write to him to tell what was my last determination about the settlement; that he wanted my answer to give it to my father. I answered him that I was very soon of age, and that I wanted that time to think more deeply upon it, to be able to think about it in such a way that I may not repent later in life of having given my consent without having well thought about what I was to do. He showed that letter to my father, who approved of my delay to be able to think more about it.'

There is another letter, which is of importance only as showing that this young man had serious pursuits apart from sport and other amusements; for he asks that Lardner's work on the *Steam Engine* may be sent to him. Then there is another letter from Lady Doughty in Edinburgh, which is important in this way, that it introduces the name of Lady Neeld, her half-sister, which was afterwards put to the defendant to test his knowledge. She says she was shocked by seeing in the papers the death of her poor sister, Lady Neeld. Then we have a letter from Lady Doughty to Roger of a painful character, which introduces Mrs. Tichborne on the scene as a woman whose querulous disposition was constantly creating unpleasantness in the family, and marrying the peace of those with whom she came in contact. She says:

'Are you going to see your father again? Of course you are aware that after all seemed happily settled between your father and uncle that your father wrote to say your mother was not satisfied,

and he requested Sir Edward to write to her; but your uncle wrote kindly but firmly to your father to decline this, saying that, never having seen your mother for 15 years or ever written to her, he was convinced no good could result from his writing now.—Dear Roger, I want to offer one little bit of advice, and that is still to improve in letter-writing—in style, spelling, &c. Now don't be angry with me, or write less often; but as it is so very necessary for you to know different styles of letter-writing, so forgive me for venturing to advise you. And with kind love from your uncle and cousin, believe me always your affectionate aunt,

K. DOUGHTY.'

Whether Roger Tichborne provided himself thereupon with that work which beginners have found so useful—the *Complete Letter Writer*—I know not, but the consequence is that he certainly does improve, though not to the extent of being able to shake off his habit of French translation. But you will find that he has fluency; his thoughts appear to come quickly, and his language readily adapts itself to the ideas that are presented to his mind; and, as my learned brother reminds me—and I am very much obliged to him for doing so—with one or two exceptions which were not intended to go beyond the persons to whom they were addressed, his letters are in good taste, and are the letters of a man used to good and refined society. This is a point which will be of consequence by and by in the decision at which you will arrive.

On the 15th of September he writes to Mr. H. Seymour that his father wished him to join him on the 25th of that month, and on the 18th he writes to his aunt that his father was at Knoyle, and was to join him on the 29th, that he intended to go to Dublin on the 21st of October, and that, if she would allow him, he would be most happy to pass a few days at Tichborne before joining the Army. On the 11th of October we find him at Knoyle, for he writes:

'I shall leave Knoyle on Monday, the 15th, as my uncle and Lady Doughty allow me to pass a few days at Tichborne before I go to Ireland.'

There, again, is an instance of the accuracy of Lady Doughty's diary, for in the diary it appears that he was there on the 15th. Mr. Seymour was at that time dying of dropsy, being then in the last stage of that troublesome complaint. He had gone to Bath, to the house of Mrs. Hopkinson, his wife's mother, in order to have the benefit of the advice of better physicians. It so happened that Mr. Seymour died at her house at Bath, and she herself died a short time afterwards. But the fact is unquestionable that Mr. Seymour died in her house at Bath, and I don't think there can be a doubt that Roger went over from Knoyle to take his leave of his grandfather. Whether that last visit, as it proved, was intended to have about it all the solemnity of a final leave-taking, or simply a leave-taking because Roger Tichborne was going to Ireland in a week or two, I do not know. Possibly the visit combined the two things. It may be that Roger did not go to take a final leave of his grandfather at this side of the grave; still, he probably knew that he would see his grandfather, on this side of the grave, no more. Mr. Seymour was known to be dying. It was now the month of October, and he died in the ensuing month of November. Every one knew that he was at the last gasp, and Roger could not have failed to be acquainted with the state in which his grandfather was. Though he might only say, 'I am come over to see you

before going over to Ireland,' and may have said nothing about an eternal farewell: and, though his grandfather may not have been aware that he was about to see his grandson for the last time, Roger must have been perfectly aware of it. Now comes the question—If you go to see some relation who has been as kind as a father to you and you know he is rapidly approaching the final termination of this world's existence, you take his hand for the last time and you know the farewell which he utters will be the last words you will ever hear from his lips, and in a short time that loved relation must pass away from the world and you will see him no more, is that a circumstance which will be impressed on the memory, never, never to be forgotten, or is it one that will easily escape? And whereas you saw him at Bath for the last time and knew he died there, will you forget it and say, 'He did not die at Bath, he died at Knoyle'? That is a question you will have to decide by and by. You have heard the defendant's account how he went to see his grandfather. I call your attention to it now, because it is one of those things which may fairly and justly be taken into account in determining whether the recollections of the defendant are Roger Tichborne's recollections.

Well, gentlemen, Roger went to Tichborne, crossed the Channel, and arrived at Kingstown on the 25th of October. On the 26th he proceeded to Dublin, and on the 27th joined his regiment. He then presents himself to the Colonel—Colonel Jackson—when a very curious scene occurred, according to the account of Colonel Bickerstaffe, then adjutant of the regiment. The young man presents himself, and the Colonel looks at him, and, whether from the seedy appearance of his dress or not, takes him for some man who was coming to assist the cook in preparing for a regimental dinner. So he says, 'Take him to the cook.' The Colonel was surprised when Roger produced the document signifying his appointment by the Horse Guards.

I should have observed that before he left Tichborne he had a conversation with Lady Doughty on the subject nearest to his heart—his relation to his cousin Miss Doughty. He renewed the conversation which he had before with Lady Doughty when she was passing through town; and I think it cannot be doubted that Roger took a very dependent view of his own capacity to please, his own pretensions as regards his power to win his way in the world, and, above all, his power to win his way in the affections of a young lady to whom he was attached. Lady Doughty writes to him the following kind and encouraging letter:

'Tichborne park, Saturday, 27th.

'My dearest Roger,—We were most agreeably surprised to-day to hear of your safe arrival in Ireland so soon. I had not dared to hope we should have heard before Tuesday. I have thought of you incessantly since our sad parting on Tuesday night last. I earnestly hope change of scene and active employment will give you a more cheering view of life, and draw you from your own melancholy thoughts. Write speedily again; tell me how you have been received by your fellow-officers, and what is your first impressions of the life you will have to lead. . . . I rejoiced to find your father had left the little pictures of yourself and Alfred with us; we have hung them under the family miniatures in the drawing-room, and so your portrait, my dear melancholy boy, I look at over that very stool where you have passed many an hour talking to me by the fireside in the draw-

ing-room. . . . And now, my dear Roger, adieu. Be assured that the confidence you have placed in me will be quite safe with me; that, whatever may be your future destiny, I humbly pray the Author of our being that He will guide you to love Him and be grateful for the existence given you here below to work out and gain happiness hereafter; and that, if you do feel affection for a human being, let it stimulate your exertions to conquer your faults and lead a life that could render those you love happy. Remember, if ever you wish to say anything in confidence to me you have only to put "Private" at the top of a separate sheet enclosed in your letter, and I shall never show it; and be assured I am ever your affectionate aunt,

'KATHARINE DOUGHTY.'

There was encouragement for him. She does not say 'The affection which you feel for a human being you must get rid of as soon as possible; but let it stimulate your exertions to conquer your faults and lead a life that could render those you love happy. Whatever you have to say on the subject write with confidence to me.' Then he writes to her on common subjects. I refer to it only to show that at that time, instead of indulging in misanthropy, he was eagerly entering into Dublin society. Here is one of his letters:

'Dublin, Nov. 9, 1849.

'My dear Aunt,—I begin to know some persons in Dublin. I went to a small evening party at Lady Burke (*sic*). The next day I went to dine with Lord Howth; his three daughters and his son (Lord St. Lawrence) were there. The party was rather large. I went on Monday to dine with Lady Clanricarde; the party was rather small.'

The mention of this lady's name reminds me of the practical joke played upon Roger by Major Foster. Lady Clanricarde, kindly wishing to get upon friendly terms with the young cornet, invited him to dine with her, and upon his telling Major Foster of the invitation, he said, 'O, you will meet all the grandees there—perhaps the Duke of Cambridge. You must go in full uniform.' Roger accordingly put on his uniform and brass helmet, and all his other paraphernalia; but when he arrived at Lady Clanricarde's he found himself *à-tête-à-tête* with that lady. When he next saw Major Foster he complained good-naturedly of the trick played upon him. There are other letters in which he speaks of the society he went into in Dublin:

'Dec. 7, 1849.

'My dear Aunt,—I went to dine at Mr. Ball (*sic*). I found there a large party, and among other persons I met Lord and Lady Bellew, and they were kind enough to invite me to go and see them. They told me that Edward Bellew was not to come back to Ireland before April. I was surprised to receive, a few days ago, the visit of Gerald Dease. I received a letter from Henry Nangle, two days ago, &c. R. C. TICHBORNE.'

It is to be remarked that Rogers sometimes omitted the final *s* in the possessive, or, as it is called in Latin, the genitive case. He should have said 'at Lady Burke's,' but he leaves out the *s*. That is a characteristic of the defendant. But, as far as my observation has gone, Roger does not fall into that error except after the word 'at,' meaning 'at the house of,' and then he translates the French *chez*—*chez* Lady Burke. The letters of the undoubted Roger Tichborne omit the *s* only under the circumstances I have mentioned.

It was stated by counsel for the defendant as a reason for not calling Sir Talbot Constable, that it had presented itself to his mind that Roger had

conveyed some offensive idea with regard to the lady whom Sir Talbot Constable married, in the following letter: 'Dublin, Nov. 29, 1849.

'My dear Aunt,—I received a few days ago a letter from my father, in which he tells me news which he tells me he can scarcely believe. It is that Talbot Constable is going to be married to a French girl, Mademoiselle de Grammont. I was very much surprised to receive such news.'

If I thought that was the intention or effect, most unquestionably I would not read it, because Sir Talbot Constable is not before us, and anything relating to his domestic affairs that could give him a moment's pain or displeasure ought not to be brought forward on such an occasion when it is wholly unnecessary for our present purpose, and would have been even if he had been called before us. And that the learned counsel anticipated that Sir Talbot Constable, if called, would have been insulted in cross-examination, is one of the most astounding things one has heard in this strange and extraordinary trial. Why, M^{lle}. de Grammont belongs to one of the best families in France, and to say that there is something offensive in speaking of the lady as a French girl is one of the strangest things of all. Why, no one could take offence if it was said that he was about to marry an English girl, or a German girl, and why it should be thought offensive that a man's future wife was called a French girl, I cannot understand. Then there is a letter which Lady Doughty writes to Roger, speaking of the death of Mr. Seymour, and calling him not 'your grandfather,' but 'Mr. Seymour.'

Besides the peculiarities I have already pointed out in Roger's letters, there is another which is characteristic of a Frenchman. He always uses the future tense with regard to a future event where we use the present. The French are much more grammatically correct in that respect than we are. We say in every-day language, 'When I get to London I go see so and so.' We ought to say, 'When I will or shall go to London, I shall go and see so and so.' Instead of saying, 'When I receive such a sum of money I pay so and so,' we ought to say, 'When I shall receive such a sum of money I will pay so and so.' The French, as I have said, in such cases invariably use the future, and when Roger uses the French form it strikes upon our ear as somewhat incorrect. Another peculiarity which is to be found in the style and grammar of the disputed and the undisputed Roger Tichborne is the employment of the present tense for the past. You will find it especially in the word 'use.' 'I use to do so and so' for 'I used to do so and so.' Then, again, we have Roger using the plural for the singular, as in the following letter, 'informations' for information, but that is only a French idiom. Roger writes to Gosford: 'Dublin, Dec. 14, 1849.

'I shall have no end of business to transact with Mr. Hopkins, and I have not time to spare. I received a letter from him; he mentioned to me that he has received those papers back again. I was glad to learn that he had them back again, because they may be very useful to me in London. He offers to give me all the informations (*sic*) in his power; and he says that if I am not able to go to London he will come over to Dublin. The objection I have to go to Tichborne at present, if I can get leave, is that by refusing to agree to the settlements my uncle might get vexed with me and get me into trouble, a thing I wish to avoid as much as possible. . . . Yours, &c.,

'R. C. TICHBORNE.'

Then in another letter he speaks of getting into 'debts,' instead of into 'debt'—a French idiom again.

Then he writes to his mother and talks about his drill, and from what he says one would draw the inference that this young man was very desirous of making himself as efficient a soldier as possible. There is another point of view from which the letter is remarkable; it was written on the point of his coming of age. He went to Tichborne on the 2d of January 1850. On that occasion, as he was coming of age, there was more or less festivity, and among other things there was a servants' ball. That was on the 5th of January or thereabouts. At this ball, unfortunately, he took a little too much punch, and out of that grew the incident to which Miss Braine has deposed, but upon which I shall not dwell at present. There is no doubt, however, that Roger did indulge a little too much on that occasion, which, perhaps, found its way to the ear of Lady Doughty, and made her apprehend that in after life Roger might give way to this propensity. On the occasion of that visit the subject of the re-settlement of the Doughty estates again came up, and Hopkins found the same disinclination as formerly on Roger's part to concur in the scheme—the same reluctance to sell the Upton property. Some letters passed between them which show that Roger was quite alive to the importance of being made thoroughly acquainted with the details, and was equally determined to have his own purpose carried out. He writes thus to Mr. Hopkins:

'Tichborne, Jan. 6, 1850.

'My dear Sir,—I am sorry that many engagements have prevented me from giving as full a consideration to the different papers which you gave me as I could have wished. I do not, therefore, think it right to take up your time to-day, but will to-morrow give in writing my views upon the subject. In the meantime I approve of the scheme as a whole, but subject to some alterations which I will point out.'

When Roger Tichborne would not consent to sell the Upton estates or the Dorsetshire estates, or any portion of the property, then it was said, 'Let us raise on the Doughty estates, without selling any of the property, a sufficient sum to pay off the encumbrances on the Tichborne estates.' To that plan Roger consented, because it left him the power to deal with the property as he intended, and it was accordingly carried into effect. It secured to him 500*l*. a year independently of all control while his uncle lived, and 1000*l*. a year at his uncle's death. That is a question which will be of importance when you come to the period when the defendant accepted the position of a herdsman. 100,000*l*. was to be raised to pay off an encumbrance of 56,000*l*. on the Tichborne estate, and the residue was to go to purchase land to increase that estate.

A Juror asked whether the portrait of Roger with the melancholy expression mentioned by Lady Doughty had been laid before the jury.

The LORD CHIEF JUSTICE said it had not, and he was sorry an inquiry had not been made about it.

Mr. HAWKINS observed that he had done all in his power to get it, but had not succeeded.

The LORD CHIEF JUSTICE.—Roger now goes back to his regiment, and he writes to his aunt a remarkable letter marked 'private.' It is this:

'January 15, 1850.

'My dear Aunt,—I was very anxious to have, before I left Tichborne, a private conversation with you; but I saw with much sorrow, when I had to

pleasure of seeing you last, that it would have fatigued too much to have begun that conversation. It is for those reasons that I have taken the liberty of writing to you upon the different subjects which I was anxious to tell you by word of mouth, if I had been able to do so before I left. You mentioned to me once in the drawing-room that my conduct towards you since I was at Tichborne had been very reserved. I don't think the accusation quite correct. Have I made any show of reserve when I last had the pleasure of meeting you in London? . . . I don't think I have; on the contrary, if I could reproach myself of something it would be of having open (*sic*) my heart too much and to have by those means laid (*sic*) you too much into my feelings and the nature of my thoughts. But I don't repent of it. There is also another accusation which can be put against me, which is, that during the time which I passed at Tichborne, I took, perhaps, too much to drinking. I quite agree that, perhaps, I have drunk sometime too much. The reasons which I can give to excuse myself for having done so are these. I had my mind raised to a feverish state by the lawyers with whom I was obliged to discuss about those settlements, that, joined with other thoughts which occupied my mind to the state I have just mentioned, it made me take to drinking as a kind of relieve. You will, perhaps, say that it is a very absurd kind of remedy! I agree. I remember that one evening in the drawing-room you were going to say something to me when somebody came in and prevented you from speaking to me. I should be much obliged to you if you had the kindness to let me know what it was.

'Now I am going to let you know a piece of news, which will, I am sure, surprise you more than anything I ever told you as yet. I intend going to confession and communion as soon as I shall be able. That will be the beginning of the reformation which I intend to begin in my way of living, and which I hope, with the help of God, to carry into execution, and keep to it in future times. I never had, as you know, much religion, but whatever little I had, I always stood by it. I know very well that I have been more of a shame to my religion than anything else for 21 years. But whatever little religion I had, I cannot accuse myself of having ever denied what I believed when called forth to confess what I believed. I was fully determined of telling you all these things which I have said in my letter, if I had been able to talk to you, before I left Tichborne. If there are some points which you don't well understand, pray write me that I may explain the meaning of each word, that you may understand everything which I have said thoroughly well. My spirits have been very low since I have left Tichborne. I don't feel so much the pain at the moment of parting with the persons who I love and who have been kind to me; but it is when I find myself alone that the reaction is very great with me, because I cannot cry. Pray be so kind to answer a very long letter, and answer each word which I said in this letter. I have given some time to decide if I should send you this letter or not.—I remain, my dear Aunt, your very affectionate nephew,

R. O. TICHBORNE.

'Written in my barrack room on the afternoon of Tuesday, the 15th Jan., 1850.'

Now what was it that had wrought this change in the mind of Roger Tichborne? Why was it he said, 'I have been more of a shame to my religion for twenty-one years than anything else'? And why was he determined to turn over a new leaf?

I cannot help thinking that the love he had formed for his cousin was the motive. There is, as you know, a purifying influence in the love of a man for a worthy object, and this young man knew very well that unless he led a life which would inspire his cousin's parents with confidence in him his hopes in that quarter might be disappointed. At all events, the first step towards future happiness was to get rid of intemperance, and to abstain from the indulgence of that propensity which he knew his aunt had observed, otherwise an insurmountable obstacle would be presented to his hopes. He says, 'My spirits have been very low since I parted with you. When I find myself alone the reaction is very great.' One cannot help seeing there were very strong emotions working within that young man's mind; and when we are afterwards told that this feeling towards his cousin was nothing more than animal desire, I must say the man who said so cannot have studied those letters and followed Roger Tichborne through all the passionate emotions which they betray, or cannot have read those letters in the spirit of truth, or he never could have put such a construction on his conduct.

And now comes a letter in reply from Lady Doughty. I think it necessary to read those letters, because they vividly depict the relations between Lady Doughty and Roger Tichborne. But that is not all. You will by and by have to form your judgment of them yourselves; and when you have read this correspondence, at all events that part of it which touches the heart and soul of Roger Tichborne to the very core, you will have to say whether this is a correspondence which any man could ever have forgotten. Upon that point you must exercise your own unbiased judgment. But it is a fact in the case that as to the whole of this correspondence relating to the habits, religion, and morals of Roger Tichborne, his present and future prospects, and, above all, to the deep passion of his heart, which extends over hundreds of letters, the mind of the defendant is an absolute and entire blank. I ask whether such a correspondence would ever pass from the mind of a living man, and it is necessary for you to have the correspondence impressed on your memory before you retire to consider your verdict. This is Lady Doughty's letter:

'1850. Tichborne Park,
'begun 29 Jan., finished 31st.

'My dearest Roger,—After three weeks being between life and death it has pleased God to restore me so far that I have this day for the first time been in the wheel chair to the drawing-room, and I haat'n to begin my thanks to you for your letters, especially that private one, tho' it may yet be some days before I finish all I wish to say to you, for I am yet very weak, and my eyes scarcely allow of reading or writing. Oh, dear Roger, it is when completely prostrated by intense suffering that you feel the immortality of the soul, and that it is God only who holds your destiny in his hands, and how dreadful it must be to appear unprepared before an Almighty Judge and receive the sentence which would decide one's lot for all eternity. In the long sleepless nights and days I have had pass before my mind bright and beautiful days; again a long distant view over a calm rippling sea, and then again a clear brilliant starlight night; and in a distant bright spot tried to discern that Supreme Being who guides and directs all these beauties to draw our minds to dwell upon Him, the great Creator of all human things, and then how little does man appear, and

how infinitely daring such a man must be to disobey the commands of a God who created heaven and earth; and then my thoughts dwelt with intense feeling on the present and future destiny of all those most dear to me; and when I saw the anxious countenance of my dear infirm husband and the bright, affectionate look of my dear child, whose career of happiness and danger in this world of trial is just beginning, my heart clung to life, and I said, Oh! my God, tho' resigned to Thy blessed will, if you see I can be of use still to those I love and prepare myself still more for my future end, grant me life! And he has given it to me, and in the midst of my worst sufferings I had the consolation of receiving your letter, my beloved Roger. I blessed God for it, and prayed that you might have courage to persevere and carry out your resolution of going to the Sacraments. Most earnestly do I hope you have found time to do so well and thoroughly, and derived consolation from those great Sacraments of our Holy Religion.

'You request me to answer "each word of your letter." I will do so in the order you have named, for I was truly sorry to have been too ill to speak when I saw your kind face by my bedside. In the first place I do not intend to reproach you with circumstances which caused a reserve during your last visit between us, they arose naturally from your resolution not to speak upon the discussion going on with regard to the future settlement of the property, and my mind being full of the thought I felt it difficult, when we were together, not in some manner to allude to the subject which clearly harassed your mind, and yet I had no wish to force your confidence; so this unavoidably threw reserve between us when we were alone, and I grieved to see that instead of finding relief from the worries of lawyers by conversing with a friend deeply interested with and for you, you rather sought relief in that fatal pernicious relief, the dreadful stimulant of drink. Remember, dear Roger, that by that conversation in town you gave me every right to be deeply interested in your fate, and therefore doubly do I feel grieved when I see you abusing that noblest of God's gifts to man, reason, by diminishing its power. Do not deceive yourself; you think it has not permanent effect upon you now, but sooner or later it must tell on the mind or health; but it is the far higher consideration, the offence against God, which should prevent one's yielding to a vice which is, after all, degrading to a reflecting mind, and I rejoice to find you condemning this bad practice.

'I cannot recall to my mind the subject you say I was beginning in the drawing-room when interrupted; probably it might have had reference to the confidence which you say you do not repent having placed in me. No, dear Roger, never repent it; be fully assured that I never shall betray that confidence. You are young, and intercourse with life and the society you must mix with might very possibly change your feelings towards one now dear to you, or rather settle them into the affection of a brother towards a sister; but whatever may be the case hereafter, my line of duty is marked out and ought steadily to be followed—that is, not to encourage anything that could fetter the future choice of either party before they had fully seen others and mixed with the world, and with all the fond care of a mother endeavour, while she is yet so young, to prevent her heart and mind from being occupied by ideas not suited to what should be her present occupations, and hereafter, with the blessing of God,

guard her against the dangers she may be liable to be ensnared into by the position in which she is placed. Do not think I have said too much; you always beg me to speak openly and sincerely to you. I do not object to affectionate cousinly influence, which only tends to good, and I feel our conversation on that night in town authorities—indeed, obliges—me to write, as I had not the opportunity of speaking to you. You have been, I rejoice to hear, raised in the opinion of all with whom you have lately had to transact business by your firmness and decision. You are in an honourable profession, which gives you occupation, and if you will only pursue your present good resolution and let the high motives of doing your duty in life and resisting the bad passion to which each one is inclined from a desire to serve God and save one's soul, I feel that ardent hope that you, whom it pleased Providence to place in that situation in our family my angel child was removed from—that you will yet fill it as I had fondly hoped to have seen him do, with credit to yourself by your charities and good example, and be a blessing to all who may hereafter belong to or be dependent on you; but for this you must turn your heart to God, resist drink or a rash throwing away life, or wasting in any way the energies of a naturally strong, sensible mind and really attached heart.

'Now, write to me soon; tell me truly if I have tried your patience by this long letter which I venture to send, for it is when returning to life as I now feel that renewed love for all dear to one seems to take possession of our hearts, so you must forgive it if you find it long. Your uncle and cousin send their kindest love. We are now quite alone, with the exception of Mr. Brindle. I cannot help telling you that I heard with satisfaction your decision about Upton, though I tried to think it might be best to sell it. I really love that place, where I had spent the happiest days of life, too well not to rejoice that it remains in the family. I hope you have been to the Castle and joining a little in the gaieties of Dublin. Poor old Mrs. Hopkinson's death will be much felt, I should think, by the Seymours. Adieu, dearest Roger. Ever be assured of the sincere affection and real attachment of your aunt,

KATHERINE DOUGHTY.

'I got Mr. Brindle to let you know I had received your letter for fear you should have been uneasy about it.'

'Raised,' says Lady Doughty, 'in the opinion of all with whom you have had to transact business by your firmness and decision.' Is that the man who has been represented to be only an object of supreme contempt to every one with whom he had to do? 'Resist drink or a rash throwing away of life and wasting in any way the energies of a naturally strong, sensible mind and really attached heart.' That this woman writes thus in all the sincerity of the most warm affection towards her beloved nephew I think it is impossible to doubt; and when she speaks of her opportunities of observing and judging him—when she speaks of him as a man who has naturally a strong mind and attached heart—are we to believe that that was the true character of the man, or the hypocritical flattery of some one using the language of adulation, instead of that of sincerity and truth? I cannot but believe that that letter expressed the real mind of Lady Doughty towards her nephew. From a letter written soon after, it appears that he had received the new scheme concerning the Upton estates, and in it reference is made to various

clauses, and alterations are in some cases suggested. He also asks for an epitome of the scheme, that he might the better understand it. Referring to Mrs. Hopkinson's death, he says it will be felt much by the Seymour family. Mrs. Hopkinson's name occurs in the cross-examination of the defendant. Upon that I will not dwell farther at present, for it is sufficient to note the fact that the event was known to Roger Tichborne.

Then comes the first indication of a desire, whether his regiment went to India or not, to go on foreign service, and he writes on that subject to his aunt in a private communication. He gets an answer from Lady Doughty, expostulating with him in the strongest terms against this intention. What the exact motive was which led him so ardently, as it would appear, to desire to go to India, either with his own regiment or by exchanging into another, I have not been able in a manner satisfactory to my own mind to decide. I hardly know whether he was sincere in the matter, or whether it was not intended to operate on Lady Doughty's mind. On the 29th of March Lady Doughty wrote to Roger with respect to his desire to go to India. In this letter she cannot understand why he desires to go there, unless it is that he had not fulfilled the excellent resolutions he had formed, and alighted the voice of conscience. To this he replies that he should not think of exchanging before he had finished his drills; and as that would be five months, he should have time to reflect upon it. He goes on:

'I have told you many times that I should like to go abroad. If I should die I leave a brother to take my place who would fulfil the duties of the situation better than I should. What should I be worth supposing I were the head of the family? It would be better to bring one up to the station so that he would fulfil his duties before God and man in a satisfactory manner. As for me, nobody can ever care for me.'

If this last utterance gave expression to his real thoughts it may supply the key to his desire to leave this country. If his heart were set on a marriage with his cousin, and he had reason to think his passion was not reciprocated by her, or if, in the event of its being reciprocated, it was very doubtful whether they would obtain the concurrence of her parents, I can understand a man with this one passion perpetually haunting him, and despairing of a happy result, longing to get away from home duties and to serve in foreign countries. Active service and change of scene might efface thoughts and hopes which could only end in disappointment and disgrace.

Up to this point we have been following Roger Tichborne and his correspondence while his regiment was at Portobello, but in the month of April the head-quarters of the regiment were changed. I ought to have told you that when Roger entered the Carabiniers he was at once attached to the 'F' troop, commanded by Captain (subsequently Major) Jocelyn. When the head-quarters of the regiment were transferred from Dublin to Cahir, Jocelyn's troop was sent to Limerick, but as Roger had not completed his drill he was detained at head-quarters and transferred to the 'A' troop, commanded by Captain Polhill Turner. I ask you to bear that fact in mind. While on the march to Cahir he writes on the 10th of April to Mr. Vincent Gosford, saying that it had been impossible for him to think about the deeds. After his arrival at Cahir he wrote the following letter to Mr. Hopkins:

'Cahir, April 14, 1850.

'My dear Sir,—I have not been able to write

sooner because my occupations having much increased have left me but very little time to think about the deeds, especially upon the new plan which has been brought forward; but if you will give me a few days longer I shall be able to think well upon them and to write what opinion I have formed upon the subject.—Truly yours,

'R. C. TICHBORNE.'

All these letters in which he desires to have time to reflect upon these schemes are to my mind important, because they were written at a time when he was not, and could not be, under the influence of Mr. Vincent Gosford, who, it has been argued, suggested the settlement and the will. Roger Tichborne writes to his aunt on the 13th of April in the following terms:

'Cahir, April 13, 1850.

'My dear Aunt,—Colonel Jackson is going to leave the regiment; he is much regretted by all his officers. It will give me a step. I went to Barmouth to see Edward Bellew. I saw Lord Bellew. . . . I was glad to receive a letter from Walter Strickland. It gave me great pleasure to hear from him, &c. Pray give my love to my uncle and to my cousin.—I remain, my dear aunt, your very affectionate nephew.

'R. C. TICHBORNE.'

Next comes this letter about the property, written on the 15th of April to Mr. Vincent Gosford:

'Cahir, April 15, 1850.

'My dear Sir,—I have not yet been able to write to Mr. Hopkins about the deeds for want of time, but I intend studying them, and write what opinion I have formed upon them. Write me a long letter to let me know what is going on at Tichborne, and what those lawyers are doing. I know nothing but what Mr. Hopkins tells me, and he is very partial.—Truly yours, R. C. TICHBORNE.'

You will contrast the way, gentlemen, in which his father allowed himself to be led and guided by Gosford, instead of reading the deeds and mastering their contents as Roger Tichborne himself did. Then comes a letter from Lady Doughty, who mentions that the Greenwoods were going over to dine with them on his cousin's birthday, and she says that Miss Doughty sends her love and wishes him to say a prayer for her on the day, before the crucifix. In reply to a statement of Roger that no one cared for him, Lady Doughty says: 'It is your own fault if they do not.' Roger next writes to Lady Doughty from Cahir, and the letter is important as showing his power of description. His style is not that of a literary man, but still, it is the style of an educated person. In this letter he adverts to the number of old churches in the country round Cahir. One thing is very noticeable in it. He speaks of the Major, which he spells 'Magor.' It may be an accident, but in this letter he spells the word 'major' with a 'g.' I should have passed this by as a mere accidental circumstance, but I am bound to mention it, because the same misspelling occurs in the letters of the defendant, and a coincidence so striking ought to be taken into account. Then there is a letter to Mr. Gosford about the probability of his exchanging, and so forth. In it there are two instances of his having written 'has' for 'as,' and that occurs frequently in the letters of the defendant. It is not a frequent occurrence, however, with Roger Tichborne. On the 11th of May he writes as follows to Mr. Gosford:

'I have received a visit from Mr. Hopkins, who brought with him the different deeds and settlements, which I had to sign before he left this

place. You will be glad to learn that I have signed them, and that the great business has at length been brought to a conclusion. I fancy you have sometimes had conversation with Lady Doughty about these deeds.'

Then comes another letter to Gosford, on which some comment has been made as showing the coarse, indelicate mind of Roger Tichborne. In this letter he refers to the arrangements which had been made for the disposition of the furniture, and ridicules the idea of such a clause being inserted in the deed. We know that the settlement was eventually signed. That settlement vested in Roger the reversion of the Doughty estates after the life interest of his uncle and father, and authorised the trustees after a term of years to raise 100,000*l.* to relieve and aggrandise the property, and Sir Edward to charge 10,000*l.* on the estates. You will see there is a distinction between the Tichborne and the Doughty property. As regards the Tichborne estate the limitations and disposition of property under the settlement of 1844 could not be touched; but, on the other hand, the settlement of the Doughty estate in 1850 enabled Roger Tichborne, subject to the prior rights of his uncle and father, to dispose of that property in such manner as he might think fit. This settlement having been executed, there is a letter—I think the only one—from Sir Edward to Roger, in which he says he was much pleased with him for having so promptly signed the deed, after which comes this passage:

'I have not been successful in letting Upton, which I regret, as it is not in my power to keep it in proper repair. The value of it will become less and less if it is not occupied. It will be an advantage to us all if you would consent to its being sold.'

On the 26th of May Roger writes to Mr. Gosford that he was much amused at the different articles which Lady Doughty was to have after Sir Edward's death, and he adds: 'How absurd to mention that in the deed! I am sure it is worthy of being sent to *Punch*.' This shows what an eye he had at that time to his own interest, even in small minor matters. Lady Doughty had succeeded in getting these articles, and the concession is made to her, at which he makes this sneering remark.

He writes to his mother on the 6th of June, and speaks about Alfred having been sent to school and about his mother's fretting and fuming again. In the same letter he mentions two of his old schoolfellows, showing that he had not left college without having some recollection of them. He also mentions the inspection of the regiment, and I will call your attention to what he says on this subject. He writes: 'The General'—that is, General Napier—'came from Limerick to inspect the regiment. He was, I believe, much pleased with the regiment, and with the different evolutions which we performed before him.' I take it for granted, therefore, that this could not have been the inspection at which the defendant said there was confusion, where the troop which he belonged to got into a difficulty, when, as he says, Captain Polhill Turner forgot the word of command, and he gave it in his stead, and so brought off the troop, which otherwise must have remained standing in the barrack-yard with their backs to the wall. It is evident, therefore, that Roger Tichborne could not have written of that inspection when he used the words I have just read to you. On the 13th of June he writes a letter to Mr. Gosford, the only important part of

which is what he says about Upton. He repeats his intention not to consent to the sale of Upton, and expresses a hope that the subject will not be mentioned to him again. Next there comes a letter to Roger from Walter Strickland. It was written from her Majesty's ship *Amphitrite*, and shows the confidential intimacy which existed between the two young men. Then comes a letter from Roger, and in referring to it I must make one remark. A question was put by the defendant's counsel to Mrs. Higgins which I think might well have been spared, because it insinuated that Roger was displeased at her marriage with Mr. Higgins. I cannot see why that insinuation should have been made except to gratify a sort of spiteful, vindictive feeling which appeared to be part of the spirit of the defence, whereas all Roger says in the letter wherein he mentions the subject, is to express surprise to hear of the intended marriage, as he had not known before that Mr. Higgins had made any proposal.

And now comes a letter, which is important, as showing that Roger was perfectly well acquainted with his mother's Christian name. What son, I would ask, grows up to the age Roger had then attained without knowing his mother's Christian name? Of course he had heard his father, hundreds of times, address her by the name. That Roger actually did know his mother's name is certain from the fact of his writing to her about her Saint's-day. You are all aware, I have no doubt, that instead of wishing people joy on their birthdays, as in England, congratulations are offered in Roman Catholic countries to people on their Saints'-days. Now, there is in the Roman Catholic calendar a Saint Henriette. Of the circumstances of the life of that female Saint I cannot profess myself to be at all aware. I am not familiar with the calendar of the Saints. I confess, to my shame, that I know nothing of St. Henriette. But Roger Tichborne, at all events, did; and he wrote to his mother to express his good wishes on St. Henriette's-day. He forgot the exact day, however, and apologises in a letter sent from Cahir on the 22d of July. In the ensuing month of August he writes to Mr. Gosford a letter, in which he states very explicitly what are his views and intentions; although in it occurs the only instance in which, as far as I am aware, he shows any want of knowledge of the property or talks nonsense about it. The letter is as follows:

'Cahir Barracks, Tipperary, 15th August 1850.

'Private and Confidential.

'My dear Sir,—I had the pleasure of receiving your last letter yesterday. I am not in the least surprised at several remarks which you made about Lady Doughty. I know enough of her character to see that all what you say is perfectly true. There is a peculiarity which has taken place a short time ago and which is the cause that Lady Doughty and I are not on the best terms. It is what explains to me why she never mentions my name before you or never writes to me. The last letter which I received from her is, as far as I can remember, more than six weeks ago. I never would have thought that such a trifle would have been the cause of a kind of rupture between us. The cause is, as far as I can judge, this: I wrote several times to Lady Doughty about my intention of going to India till, about as far as I can remember, six weeks or two months, when I wrote to her that not receiving any more answer to my private letters, I thought that our private correspondence was nearly brought to a conclu-

sion. I have never heard or received any letters from her since that time. My intention is to go to India for ten years. I hope that in that time the property will be set right again, because it is not even the difficulty of paying the debt which is on the property, which is very great, as it has debts upon it nearly twice its value, thanks to my blessed relatives. Instead of that, going abroad as a cavalry officer, I receive 400*l.* for my pay, which, with the 500*l.*, gives me nearly twice as much money as I can spend in this country. You misunderstood me when I spoke of giving Upton to Miss Doughty. If I ever did such a thing it would never be my intention of giving her at the same time the power of selling it or doing with it what she chose; that has never been my intention. But what I thought of doing was this: I took, as you know, a great fancy for my cousin, more even so than I ever felt or care to feel for any other young lady of her age. And as I know that she was very fond of the place I thought that when I should go abroad I should give her leave to go there whenever she liked, and remain there as she chose. I never ment (*sic*) more than that. I make no doubt of the truth of what you say as to Miss Doughty being engaged to marry at this time next year. She will be, I doubt not, a fine high-spirited girl. I hope she will make a choice which will make her happy.'

In another letter Roger Tichborne expresses great impatience at the cost of the deeds of the re-settlement. He says that the family ought to pay the lawyers, as they wished to employ them, and that he ought not to pay them, as they only annoyed him. I wish conveyancing were reduced within the limits to which common sense ought to confine it; but unfortunately, it was not at that time, although there has been some reform in the matter since. I trust that now our deeds are something more like common sense than the tautological, voluminous, and barbarous documents which were in vogue some years ago. In this letter Roger Tichborne corrects an impression which Mr. Gosford appears to have entertained that he had it in his mind, with reference to Upton, to tender it as a residence to his cousin. Mr. Gosford had said—I cannot help thinking rather hastily—that this was a boyish notion. I cannot think that at any time it entered the mind of Roger Tichborne, but at any rate it did not long remain there. Mr. Gosford says he afterwards knew he could do nothing with Upton unless he came into possession of it by the deaths of his uncle and father. A great deal was made of this matter, as showing that Roger Tichborne did not really know what the nature of his position was with regard to the Doughty estates; but it is obvious he knew that he could not immediately deal with them.

There is another letter, which is somewhat remarkable as showing that Roger Tichborne was not the ignorant creature that the counsel for the defendant endeavoured to represent him. He must have had fair average information—as much, perhaps, as is to be expected from a young man whose education has not been all that could have been desired, and whose intelligence has not been developed as much as it might have been under more auspicious circumstances. The letter, addressed to his 'dear Aunt,' and dated Cahir, Sept. 24, 1850, is as follows:

'I have made of late several excursions—one among others to the old Castle, at Cashel. That old castle was formerly the residence of the Kings of Ireland; it is certainly one of the most curious ruins which I have seen for a long time. Among

other curiosities which are to be seen there, there is one of those old Irish towers which were built before Christianity. It has never been known to a certainty for what purpose they were built. The way they are built has made some persons think that they were built to worship the fire. What has given rise to that opinion is that many towers of the same kind have been found in Persia, where they used to worship the fire. The tower at Cashel is 130 high; the door, as in all those buildings, is between 12 and 16 feet from the ground. I saw there another piece of curiosity. It is an idol which the Saxons used to worship; it is certainly one of the ugliest things which I have seen. I am sure that the Egyptians, among their various collections of gods, had one not half so ugly as the one which I saw at Cashel Castle. I am in hopes of getting my lieutenancy soon. I have passed my examination, which, fortunately for me, was on nothing but on regimental matters and on Courts-Martial; still, it took me much time to read through all the books, because they are so very dull that I use generally to go asleep when reading them. It was very lucky for me that I was not obliged to study Euclid, because I am certain that I never would have passed.'

Here is a man acquainted with the historical fact that fire was worshipped in Persia from the earliest times. It also appears from this letter that Roger Tichborne knew about the Egyptian mythology, and was aware that the gods of the mythology were, as regarded their outward representation in the form of idols, in numerous instances a strange compound of beast and bird and man. Is that the letter of a man who is either an idiot or who has not the slightest trace of education or ordinary common knowledge? This is one of the facts which we ought to use for the purpose of determining the intellectual character of Roger Tichborne, and by and by I shall invite you to consider the catalogue of his books and to judge for yourselves whether he was a poor sunken, miserable wretch, as stated by the defendant's counsel. In another letter Roger Tichborne expresses his gratification that he had not to pass an examination in the six books of Euclid. His words were: 'If I had been obliged to pass an examination in the six books of Euclid I am afraid I should not have succeeded.' Thus it appears Roger knew not only the department of literature or science with which Euclid was connected, but also that his work was in six books, whereas the defendant was obliged to admit that even the name of Euclid was to him unknown. It is impossible, I think, to go through this correspondence, and the facts I have brought under your attention, without seeing that Roger Tichborne had studied and endeavoured to master at all events some portion of the great work of Euclid, although his aptitude for mathematics may have been very small.

Writing to Mr. Gosford from Cahir on the 7th of October, Roger Tichborne says:

'I was happy to hear some time ago Mr. Seymour's good success at the Poole election. I was much amused at the details while I read about it in the Dorchester paper.'

And, again, writing to Mr. Gosford in November, he says:

'I have not heard from Henry Seymour for some time. I suppose he intends going soon to Poole.'

On the 9th of October he writes to Mr. Gosford that his father had been to see him and was much pleased with the regiment and the place, though if he had stayed there for three weeks he would have had enough of it. A question will arise by

and by, whether, when Mr. Tichborne visited his son at Cahir, the son accompanied him as far as Dublin when he returned to England. The son says over and over again in his letters that he did, and the father also mentions the fact that Roger accompanied him to Dublin. On the 18th of October Roger writes to Lady Doughty, stating that his intention was to exchange into a cavalry regiment in India. Then he writes the following letter to Mr. Gosford:

'Cahir, Nov. 2, 1850.

'Lady Doughty wrote to me; I was much surprised at some of the news she gave me, especially one, among others, that Miss Doughty is to go back to the convent for the winter. It appears to me very strange that she should go back to school after having left it for more than a year. It looks to me very much as if Lady Doughty and the

governess could not agree well together. I hope to stay some time at Tichborne during my stay in England.'

This letter tends to show the unreserved confidence with which Roger Tichborne treated Mr. Vincent Gosford. All things, even the communications between his father, mother, and aunt, were communicated to him in the confidence of unreserved friendship. In his letters to his father, his mother, and his aunt he does not mention matters half so unreservedly as he does when writing to Mr. Vincent Gosford. There are several other letters from Lady Doughty, but they are only interesting as showing the very warm, sincere, and affectionate attachment of this old lady to Roger Tichborne. I have now completed the correspondence up to the end of 1850, and I will begin the year 1851 on Monday.

THIRD DAY, Monday, February 2, 1874.

Gentlemen of the Jury.—We brought Roger Tichborne, on Friday last, down to the end of the year 1850. There was one date which I did not give you which will by and by be of importance—namely, the date of his promotion. He was promoted to a Lieutenancy on the 22d of November 1850.

A Juror.—Had he to undergo an examination?

THE LORD CHIEF JUSTICE.—He had to pass an examination, not, as I understand, in mathematics, but simply in regimental affairs. I see that in one of his letters he congratulates himself on having passed the examination. I am obliged to you for asking the question, for it reminds me that he puts the place of examination at the head-quarters at Cahir. He did not go to Dublin, as the defendant said he did. That is not so. In the beginning of the year 1851 we find him at Cahir, and he writes thus to his aunt:

'Cahir, Jan. 4, 1851.

'My dear Aunt,—I had the pleasure of receiving your last letter a few days ago. I am much obliged for all the affectionate wishes which you make in my favour for a happy new year. I wish you, my dear aunt, as also to my uncle, a happy new year; which I hope may be followed by many, many others.

'I was happy to learn that you had heard lately from Alfred. I was glad to hear that he is always happy at Downside. I am not at all pleased with Tom (Tom Muston, his valet), he does not pay attention; he is quite a different servant now to what he was when he came from your house. I am almost certain that he must have fallen into bad company, and the sooner he gets out of it the better. I told him this afternoon that was not my intention to keep him any longer. I told him that I should try to place him. I shall give him a certificate,' &c.

So that Muston was wrong in stating here that he gave his master warning. It was his master who gave him warning.

Well, Roger Tichborne gets leave of absence for a fortnight. At that time Sir Edward and Lady Doughty were staying at Upton. Roger's present object was to pay a visit to his parents at Paris, but he resolved to take Upton on his way, and stay a day or so, and on his return to call there again. On the occasion of his second visit he appears to have had some confidential communications with Lady Doughty upon the subject that was uppermost in his mind—namely, his attach-

ment for his cousin. When he returned to the barracks, on the 31st, he wrote her a letter, in which he refers to such a conversation. It runs thus:

'Jan. 31, 1851.

'My dear Aunt,—I was sorry that we had not time on the morning of my departure to have some conversation on subjects which might have proved themselves useful to me. You asked me a question, if you remember, I had not time to answer as plainly as I could have wished, for want of time. You asked me if I formed an affection for some lady it would prevent me from going to India. I would most as certainly (*sic*), and at the same time leave the army at once. The army is very good for a young man like myself who has not a home in the wide world to bless himself with. But it appears to me almost impossible that a young person could form an attachment for me, that I can scarcely believe it. I cannot, at the same time, but wish most sincerely that it could be, for many reasons; it would, I have no doubt, give me a brighter aspect of life, for which I have so very little at present. Secondly, it would make me lead a quiet and steady life, and give me a happy home to live in, which is most undoubtedly one of the greatest blessings a person can enjoy in this world. But it is, unfortunately, too much happiness for me, so that I much better not think about it, because it makes me unhappy. I shall do much better to go to India for a certain number of years and come back to be able to see my brother well settled in life, and retire afterwards quietly into the country far from the world, and do as much good to my relatives as I possibly can. That I have explained to you last Tuesday night in your room, which conversation I hope you have not forgotten. If you have a moment to spare to answer this letter it will give me much pleasure to receive one in answer to mine. I hope that you know enough of my character to know that anything which you may say in your letter to me is quite safe; nobody in this world has ever known me to repeat, and you know, moreover, that I have never taken any offence to whatever you told me.—I remain, my dear aunt, your very affectionate nephew,

R. C. TICHBORNE.

'Pray burn this letter when you have finished reading it.'

Whether Lady Doughty at that time contemplated a marriage between her daughter and Roger I cannot say; but this I cannot help thinking.

that, wisely or unwisely, she used his affection for his cousin as a motive for inducing him to desert from his determination to go abroad.

Well, resolving to go abroad, he moves again in the matter of his will, and writes to Mr. Slaughter upon the subject, asking him first to explain to him how he was situated with respect to the estates, and what his power of disposing of them was. The letter was a perfectly well-written one, but it was not his own. It was written at the dictation of Mr. Gosford, to whom, at Upton, he had communicated the fact that he desired to know exactly how he stood. Mr. Gosford, although he knew the position perfectly, very properly referred him to Mr. Slaughter, the family solicitor, instead of taking the responsibility of advising Roger Tichborne upon the subject. In reply to the letter, Mr. Slaughter wrote a letter, in which he explained in the clearest and most intelligent form Roger's rights and powers with respect to the property. Now, by and by the question will arise whether the defendant had any knowledge whatever of those rights and powers, or whether he was not wholly ignorant with respect to them. It has been sought to explain the ignorance he has professed, by asserting that Roger himself never understood what he was about either in executing the settlement or the will—that he was the mere creature and instrument of other people. Well, of course, if that be the case, the answer is a good one. If, on the other hand, you are satisfied that Roger did thoroughly understand what he was doing, then it is one of the circumstances in the case which, as it strikes me, presses most hardly against the defendant. Mr. Slaughter, after speaking of the derivation of the Doughty property and of the charges on it, says:

'Subject to this sum of 118,000*l.*, and to certain annuities under the will of Mr. Doughty, amounting to about 600*l.* per annum, and to the contingency of Lady Doughty surviving her husband and taking the jointure, the whole of the Doughty estates in the counties of Middlesex, Lincoln, Buckingham, and Surrey are limited to you in fee—that is to say, to your absolute disposal. And the Upton property is also, in like manner, limited to you absolutely, subject to a mortgage debt of 13,700*l.*, charged thereon in favour of Captain Gardner. Although you do not come into possession of the several estates until after the deaths of Sir Edward Doughty and Mr. Tichborne, it is now competent to you to dispose by will of your reversion in those estates in any way you may think proper. I should also name to you that, as regards the sum of 100,000*l.* charged on the Doughty estates, the deed of settlement provides for the disposition of this charge as follows: For payment of the several sums of 16,000*l.* and 8000*l.* charged on the Tichborne estates in favour of daughters of Sir H. Tichborne, 24,000*l.*; trustees of settlement of Mr. and Mrs. James Tichborne, 3000*l.*; portion secured for Miss Catherine Doughty, 32,000*l.*; purchase of Whitears Farm, 2200*l.*; ditto of Old Court Farm, 2374*l.*; total, 63,574*l.* And the residue of the 100,000*l.*, viz. 36,426*l.*, is directed to be laid out in the purchase of lands, &c., to be settled to the same uses as those declared of the several properties released from charges thereon by the application of this money. Under this arrangement, in the event of your own and your brother's death without leaving male issue, and of your father having no other son, the absolute reversion of these properties and of the 100,000*l.* applicable in reference to them would devolve to your-

self, and as such would be disposable by will. You have also an absolute reversion in the furniture, &c., at Tichborne, after the deaths of your father and uncle, subject to the payment of such portions of a sum of 1620*l.* as, under the provisions of a deed of arrangement, may not have been paid off by annual instalments at the death of the survivor of those parties. I hope the foregoing will prove intelligible and satisfactory, and I need not assure you that I shall feel very great pleasure in conveying any further and more detailed explanation if you consider it desirable.'

Well, Roger having received that intelligible and explicit explanation as to his position, the thing is allowed to sleep again for a certain time. On the 4th of February he wrote to Mr. Gosford:

'Cahir, Feb. 4, 1851.

'My dear Sir,—I arrived at Cahir the 30th, after a tolerable journey from Upton. I was obliged to remain in London on Wednesday; I was not sorry at that delay, because it allowed me to spend the day with Henry Seymour, whom I had not seen for a long time. One of my first occupations on arriving at Cahir was to write to Mr. Slaughter about what I told you I intended to do the last time I saw you at Upton. I wrote him the letter which I wrote in your room before you. I feel rather anxious to settle that business as soon as possible. I hope that Mr. Slaughter won't wait long to write to me. I have written to Lady Doughty to let her know of my safe arrival at Cahir. I hope soon to have the pleasure of receiving a letter from her which will give me some news of Upton. Do you know when Lady Doughty intends taking away Miss Doughty from convent? I hope to have soon the pleasure of hearing from you.—I remain, my dear Sir, truly yours,

'R. C. TICHBORNE.'

You will remember what I said about a conversation between Lady Doughty and Roger Tichborne at Upton. Lady Doughty, in reply to his, wrote a very remarkable letter. It shows how her mind vacillated to and fro: sometimes feeling disposed to allow these young people to marry, and at other times setting herself strongly against it; still not positively saying it shall not be, but using the affection for her daughter as a sort of lever to keep him in the right path. She says:

'Upton, Feb. 9, 1851.

'My dearest Roger,—I have wished for a quiet moment to sit down and answer your private letter which you so kindly wrote me, to answer openly and sincerely. I cannot see you throwing life away and running heedlessly perhaps to eternal misery without the strongest efforts to rouse you to see your real position, and the blessings God would shower down on you if you would not throw them away. Examine well your wish to go to India, and you will see it originally arose from the unfortunate circumstances in which you were placed early in life, and, therefore, India being so remote had, to your imagination, dreams of happiness. This was very natural, and without a friend your thoughts became concentrated and thrown back upon yourself, and hence imperceptibly you acquired intense reserve, in which also you placed happiness, and afterwards you flew to the reading bad books to gain a knowledge of life, which prematurely you were acquiring before your judgment was formed. This familiarising your mind with vice weakened by degrees your religious principles, and when passions began, principles were too weakened to stand the test. Now all this has given you a false idea of life. . . . Your present isolated position most deeply I re-

gret, because, again thrown out of society, this inclination is fostered from not having other sensible amusements and varied society; but this cannot last many months. Would it not be possible to exchange to another regiment, without going to India; where for years, if not for ever, you throw yourself from friends, and the possibility of better principles guiding your conduct? I did certainly put a question to you on that unhappy morning when we parted, arising from our conversation the night before, and wishing to ascertain if any thoughts of a future life at home could arrest your headlong course.

'But to return to our question. I ask you to reflect and think if a parent could be justified (even supposing the almost insurmountable objection of such near relationship could be set aside), in encouraging the affection of a person to their child who lives in determined opposition to the practice of their religion, who defies Almighty God, even in His holy temple, by not praying, or even reading other works at the same time, and drown thoughts of the future in drink, and offends Almighty God by profane language. Could a young innocent being full of religious feeling be encouraged to risk her happiness in this life, and possibly in the next, by being united to such a man? No, a parent would be a traitor to their child who could give such encouragement. Still, dear Roger, I am fully aware that these are—you would say—bad habits, but not unconquerable, if I had the motive of strong attachment to induce me to try and lead a steady life; very true, it would be a strong motive; but without the higher one of endeavouring to serve God, the other motives alone would not, probably, last after you had attained your object. Yet I do most firmly believe that if you could once give your entire confidence and go to confession—to one who, beside piety, had experience and good sense to be a guide and friend to you—you would feel a calm of soul and peace of mind which would enable you to judge of your real disposition and views for the future. If you would make up your mind to marry a sensible person, you would find the calm and true happiness of a home, the habits and duties of which, if undertaken from good motives, draws down the blessing of God to support trials, which, more or less, in this world must occur; but there is a happiness in fulfilling one's duties, which no exciting, but criminal pleasures can give. Alas, you have misery which has disgusted you at the state! but remember it was always a *mal assortie* marriage, possibly not entered into with mutual affection; but you have already seen that there are those who might be in every way suited and inclined to attach themselves to you. This surprises you; it does not me; however much you may stifle it, a person may see that naturally you have not only strong good sense and judgment but a heart and character particularly calculated to insure the devoted attachment of a virtuous woman; but you must give proof that you could permanently lay aside bad habits. Then indeed marriage would be a preservative from vice. Yet the affections of the person to whom you allude is a sacred subject to me; she is far too young even to be supposed to have formed any attachment, and the obstacles are far too strong for me to encourage you to look beyond the affection which a brother and sister might have, and which, if there never was a thought beyond, would be a happiness to both. No; most earnestly do I entreat you to endeavour to see good English society, and judge fully of England and your future position before you

throw yourself, possibly for life, out of it. If opposed in one idea you may see some person hereafter in reality more suited to you, and that this may be the case I earnestly pray. Have patience now with this long but candid letter. Pray write quickly to me and tell me how far you will at least reflect on what I have said; and be assured that no one could feel more deeply interested or more devotedly your friend than your attached aunt,

'KATE DOUGHTY.'

Well, it is a long letter. Whether it is a candid letter is another matter. If I had been in Roger's place I confess I would have read it over and over again without knowing what it really means. Well, Roger writes this answer:

'Cahir, 16 Feb. 1851.

'My dear Aunt,—I am sorry at not having been able to answer your two last letters; you have put me so many questions in your last that it will, I am afraid, take me more than one day to answer them all in a satisfactory manner. Pardon me if you find me long and tedious. You ask me to see as much of good English society as I possibly can before (as you say) throwing away my life. I thought that I had answered that question when I was last at Upton. I have seen as much good society when I was in Dublin as I could; not that I care much about it myself, but to be able to say that I have not left the world without knowing it, and that I have seen as much of it as I was able. I cannot help remarking a passage in your letter about my wish to go to India. You have perhaps forgotten that my first wish to get into the army was to get into the East India Company's service. My father objecting to it, and my being underage, prevented me from going, and obliged me to keep quiet till I was able to go. I then entered the English service with the intention of learning my duty, and then exchanging into a cavalry regiment abroad. But in all cases it matters very little if I go or remain in my dispositions. It is quite impossible for me to think of marrying and settling in life. I might meet persons in the world for whom I should wish to form some kind of attachment, but no lady would ever form one for me. But supposing even so that it might be possible. I never would on any account whatsoever be the cause of a person regretting afterwards that attachment which she would have formed for me, and by those means having her existence made unhappy on my account. So, my dear aunt, I'll sooner be anything you like to call me. But it will never be said that I have been the cause in any way of a person being unhappy on my account. I know well enough that I am very liable to form some attachments in the world, but I keep away from it because my intention being of not marrying, it is much better for me that I should not form any. Marrying is certainly one of the greatest blessings of God, but it is so very seldom that two persons agree well together. A man may be most anxious to make another's happiness, and she may not care for him. Marriage is, if I may use the word, quite a lottery. I have almost made up my mind never to try it. Napoleon use to say that the two extremes are close to each other. There are rather too much chances in extremes for me to try.

'You ask me to go to confession to a priest, who would be a friend and guide to me. I don't know the priests in this place; they are certainly very respectable persons, but I doubt if they have enough knowledge of the world to be a young man's guide; besides that I have had enough of the Irish way of confession. I have, I believe, said

in my last letters and in my conversations with you at Upton as much about my plans as I possibly could. I have said what I intended to do for my brother. But I am quite of your opinion, for parents would be to blame if they encouraged an affection between a young person and a man who drinks and swears and has not as much religion as would be wished, undoubtedly (*sic*) repent of it afterwards. But I must say that I don't drink so much as you think; and even so, I don't drink so much now as I use to do formerly; and besides that, in a moral point of view, I am very steady; it is perhaps surprising, but it is the truth; and moreover, I don't read profane books in chapel (*sic*); and moreover, I never frequent loose (*sic*) society. I know well enough that I am more than anything else a shame to my religion; but I have always stood by what I believe to be the truth, and backed it against anybody. Now, my dear aunt, I must conclude by assuring you that I shall always find myself happy when I may be of any use to my family, and in some future times you should require my services, I should be too happy to do anything to oblige you, because you have been always kind to me; and in some years hence, when I shall most likely be behind (*sic*) seas, I should hear that I could do something to oblige your daughter, I should find myself but too happy to do it in any way which I had in my power. I don't suppose that you will hear from me in this private way for some time, because I have said, I believe, all what I could possibly say.—I remain, my dear aunt, your very affectionate nephew,

‘R. C. TICHBORNE.’

He tells his aunt—

‘I should be sorry to leave the regiment, as I do not think I shall find one with such a selection of gentlemen as there are in this.’

Well, we know that his brother officers used to play practical jokes upon him. One regrets to see the extent to which they were carried, and I hope that such things exist no longer. We see, however, the good-natured way in which he speaks of them. They appear to have been fond of him, and he seems to have returned their kindly feelings. When, however, he said, ‘it is impossible for me to think of marrying and settling in life,’ which he does in the same letter, I ask what can it possibly mean? for we know that if there was anything in the world which animated his whole mind it was the passion he had conceived for his cousin. Well, then business mingles with romance, and he writes to Mr. Hopkins about money matters. You have the letter before you, and I allude to it and others like it not because it has any direct bearing on the main question, but because they may enable you to form a judgment as to how far Roger was a man of business or not. He writes thus to Mr. Gosford:

‘Private.’

‘Cahir, Feb. 17, 1851.’

‘My dear Sir,—I have received an answer from Mr. Slaughter. I hope that I shall be able to settle that part of the business about which I spoke to you very soon. I feel very anxious about it. Pray remember me kindly to Mrs. Gosford.—I remain, my dear Sir, truly yours,

‘R. C. TICHBORNE.’

And again:

‘Cahir, March 12, 1851.’

‘My dear Sir,—I have received letters from my parents mentioning that they had heard that my regiment was likely to go to India, and telling me that they could never give their consent to my going abroad. My mother is telling me she would

die of sorrow if I am going. That is all nonsense; my father and mother have never been so happy and enjoyed such a peace of mind as they have since I left their house.—Truly yours,

‘R. C. TICHBORNE.’

We must not take that expression as meaning that he personally added to the domestic discords, but it seems to be that the father saw what was necessary for his proper training and bringing up, and his mother, with misguided maternal tendency, did not wish him to be out of her sight. His absence would seem to have caused a cessation of these contentions. These and all his letters, however, are remarkable for the thorough determination he expresses to act for himself according to his own views. Other young men, if they knew how anxious their fathers and mothers were that they should not go to India, would fall in with their wishes, or do all they could to mitigate the circumstances. Not so Roger. He had a determined, inflexible will of his own. Neither father nor mother could influence him in forming his resolutions, and much less, when once formed, to alter them.

He next writes to Mr. Slaughter about the settlements; and on the 8th of April, Troop A, to which he was attached, was removed to Clonmel. He writes to Mr. Gosford, expressing the utmost surprise at a suggestion made to him by his father, that he should endeavour to get married to a young lady he mentioned—a lady, who, Mr. Gosford tells us, was not much known to Mr. James Tichborne and still less to Roger, and he asks Mr. Gosford to give him all the information in his power on the subject. On the 12th of April he wrote again to Mr. Gosford:

‘Clonmel, April 12, 1851.’

‘My dear Sir,—I have received a letter from Mr. Slaughterer in answer to mine. I see quite plain by what he says, that it will be a long business to settle the Doughty property as I wish. The present deeds—which I will, in all probability, be obliged to sign—almost frighten me out of it altogether. . . . I shall write to Lady Doughty very soon.—Yours, truly,

R. C. TICHBORNE.’

Then on the 20th, he wrote to his aunt to tell her that in arranging his papers he came across a slip from her, which he had perused with much pleasure as it brought back ‘gone-by days’ to his mind. To this letter Lady Doughty replied as follows:

‘Tichborne-park, April 24, 1841.’

‘My truly dear Roger,—I have three of your letters to thank you for. . . . I see perfectly by your private letters the depressed, lonely feeling you had when you wrote. I never can forget the many conversations we have had, and believe me I am as fondly interested for you as ever. Never think you can tire me by writing, and would to Heaven that my poor prayers and those far more worthy may snatch your soul, in spite of yourself, from the dangerous paths in which it is going. I see you alone and sorrowful in your room, when as a Christian you ought to feel joy on that glorious day, Easter Sunday. Till your mind and conscience are at ease, you cannot judge of life as you ought. Did you put a withered leaf in your letter? Was it an emblem of yourself? If so, throw it aside; look to the bright green leaves now opening around us in spring, and say, “I will not be the withered leaf, but resisting every inclination to drawn care and shorten my days, turn to the blessings our gracious God has yet in store for me if I ask for them and follow His direction.” Truly do I hope you may be restored to the Church this Easter. Let me hear very, very soon again,

the kindest love from your uncle, believe me really attached friend and aunt,

'K. DOUGHTY.'

men, I pass the withered leaf by for the pre-It has been so strenuously urged upon you, ng some mysterious and hidden meaning, shall have to consider it by and by; but say that, in my opinion, what was said of t never to be forgotten as one of the curi- of forensic oratory.

comes a matter which has been introduced defendant in his history of his military in connexion with Captain Polhill Turner ly, some confusion that Captain Turner's said by him to have got into at an inspec- I have pointed out to you that in the year ere were two inspections at head-quarters r. This seems to have been an inspection mel. Writing on the 15th of May, he says: dear Aunt,—I was much interested at the you gave me. . . . We have had the inspec- the beginning of this week; the General nding this district came to inspect the d garrison. It was rather a pretty sight nearly the whole of an infantry regiment, a of artillery, and a troop of Cavalry drawn together in the square. . . . Pray give my my uncle.—I remain, my dear aunt, your mate nephew,

R. C. TICHBORNE.'

s of the former inspection that the General remely well pleased with the way in which iment performed its evolutions. In this in- he says nothing except they looked very ad makes no observation which will bear endant's statement. I find no reference pection in October 1850, but it is possi- re may have been some incident on that oc- uch as the defendant mentioned. We shall consider that by and by. In a letter of l of May, Lady Doughty advises him to be areful about his dress and appearance in ring, adding—

not but feel gratified by your very kind brance of these months, never to be for- by me, that you spent with us here. I ish that you would not think so despair- f your own character, and then much that said to you would have that effect which lently wish for, &c. Believe me your aunt,

'K. DOUGHTY.'

his letter Roger replied as follows:

Clonmel, 26 May 1851.

dear Aunt,—I nearly guess who is the who has the kindness to make these about me; the same who last year tried re you believe I tried to corrupt John r's character, and that I tried besides to m into bad places. But in all cases I am am not far from the truth when I think of son I cannot now name.—Your affectionate r,

R. C. TICHBORNE.'

sequently, Roger got leave of absence for a ht, and his aunt wrote to him asking him them a visit:

Upton (no date, July 1851).

dear Roger,—I am very glad you have got . . . I shall be glad to hear from you f you can spend a few days with us. I am o say the whole of next week I have not a o give you, as we have a large party of and priests. . . . Your uncle and cousin ur love.—Your affectionate aunt,

'K. DOUGHTY.'

ve extended from the 15th to the 29th of and he arrived in Clonmel on the latter day.

He could not, therefore, have been at the Brighton Races—a fact to which I shall have again to direct your attention when I come to address you as to the Brighton card-case. On the day after his arrival he wrote: '*Clonmel, 30, 1851.*

'My dear Sir,—I arrived here last night after a very tolerable journey from Upton. I spend few days at Upton with my uncle and Lady Doughty. I told Lady Doughty it was fully my intention to go abroad with my regiment. There were several persons at Upton—among others the son of Lord Lovat. I don't think I am mistaken if towards the end of the year you don't see in the newspaper, in the column devoted to marriages in high life, the announcement of the marriage of Lord Lovat and M. D. What I have just mentioned struck me the very first day of my arrival. Walter Strickland is in great favour at present. I don't know how long it will last. Lady Doughty has, I believe, been disappointed about me. You may, perhaps, know why.—Dear Sir, truly yours,

'R. O. TICHBORNE.'

He feared that some brilliant admirer was making way in her affections. We know that in the middle of 1851 Miss Doughty had begun to feel a tender inclination towards Roger Tichborne, whose attentions to her she must have been perfectly aware of. But young ladies will sometimes—even if there be a favoured lover on whom they have fixed their choice—indulge in a little bit of coquetry at the expense of the lover who really has possession of their hearts, and will show a temporary preference to some one who pleases their imaginations without touching their affections. I cannot help thinking that perhaps, when Miss Doughty saw Roger look grave and sullen at the Master of Lovat, she played him off a little instead of undecieving him, and hence this sort of expression, which we find in his letter, of having no doubt that in the next year there would be in the columns of the newspapers the announcement of her marriage with the Master of Lovat. It had not, however, struck Mr. Gosford in the same way, because he did not 'think there was anything serious in what was passing at Upton.' He writes to Roger in that way, and Roger writes to him: 'I was surprised you did not make the same observation that I did when I was at Upton.' Again he wrote to Mr. Gosford on the 20th, complaining of not having heard from Lady Doughty, and stating: 'She has something against me; but I cannot make out what the D—l it is.' He, however, soon afterwards received a letter from his aunt, which he described, in a letter to Mr. Gosford, as being 'cold, long, but very polite,' and in a former letter to him, dated the 10th of October, he says: 'Lady Doughty has evidently given me up as a bad job,' and he adds: 'If you observe anything further as to what I mentioned let me know,' evidently alluding to the Master of Lovat and Miss Doughty.

Roger determined to pay a visit to Paris, and applied for leave of absence from the 15th of December till the 15th of February, and, writing on the subject to Mr. Gosford, he says:

'I expect much blowing up in Paris. I intend to stand some of it; but if it comes too strong I shall go away at once. I am not going to remain to be scolded all day. That won't do; it does not pay.' Well, he got leave on the 15th of December, and it was to continue until the 15th of February, and on Christmas-eve he arrived by invitation at Tichborne. From what he himself tells us, there can be very little doubt that if he had any

misgiving as the result of what he had seen at Upton as to the state of Miss Doughty's feelings towards him, her reception of him was such as to dissipate all anxiety on that score, and to satisfy him that his affection was returned, as far as a young lady of her age, brought up with all the sentiments of delicacy and maiden modesty, could by her manner disclose what was really passing in her mind. He saw this, but no doubt he was perfectly aware of the difficulties which stood in the way of the accomplishment of his wish to marry his cousin. In the first place, he knew very well that Lady Doughty was by no means anxious that the marriage should take place. In the second place, he knew very well that neither his uncle nor his father would look with favour upon a marriage which the Church discountenanced, and which, in their own private and personal opinion, was one which, on the ground of propinquity, had better be avoided than sanctioned. He knew all that, and he talked it over with Mr. Gosford, from whom he had no secrets, and to whom he confided everything connected with his desire to marry his cousin. We know that once, when conversing with him on the subject, he sprang up, as Mr. Gosford has described, and, getting pen and paper, wrote down a vow to build a church in the event of his marriage. That there was such a document is beyond the possibility of doubt. Whether that was the sealed packet is a matter for you to consider by and by; but that he did place in the hands of Mr. Gosford a paper in the form of a vow to build a church in honour of the Blessed Virgin Mary I think it is impossible, looking at the letters we have under his own hand, for a moment to doubt.

Well, what the position of the two cousins was was pretty evident to every one. Roger was in love with her, and of course could scarcely conceal that he was. The probability is that the young lady returned his affection, and while, perhaps, she was not quite so strong or ardent in her reciprocal feeling, still she entertained a feeling of growing attachment towards him, and doubtless showed that she was not displeased with his attentions. This state of things, of course, soon became manifest to every one who was interested in the matter. Lady Radcliffe was questioned here as to whether she was aware of Roger's feelings at that time, and her answer is a very touching one—'I hoped.' She was no doubt perfectly aware of it; but Lady Doughty had by no means made up her mind to approve the match or to assent to it. On the contrary, from the obstacle of relationship, which might, however, be got over, and from her fears as to Roger's tendency to drink—although I cannot but think that that matter has been exaggerated—her inclination was at that time all the other way. Accordingly, on Sunday, the 11th of January, Roger received a summons to his uncle's room. Sir Edward Doughty stated at once to him his disapproval of Roger's attentions to his cousin, and told him that the relationship between them was a serious objection. 'It would be better for both of you,' he said, 'that this should be put a stop to at once. The longer you remain together the more this attachment will grow. It is only by immediate separation, by the cutting of the tie asunder once and for all, that pain and unhappiness will be spared to both of you, and therefore, Roger, the sooner you leave here the better, and I wish you to go at once.' It was accordingly settled that he should go. Roger did not see anything of his cousin that afternoon. She knew he had been

summoned, but did not know what had passed. What he felt on that occasion he tells us himself.

It has been urged by the learned counsel for the defendant that the love of these two persons for each other was a sham—the expression, I think, was that it was humbug—a word for the first time introduced into forensic language. At another time, however, it was said not to be humbug so far as Roger was concerned—that he had a passion for his cousin, but that it was degraded into mere personal desire, and he denied to it all the higher qualities of that divine passion which, among other things, distinguish man from the lower animals. In order that we may judge of that let us see how Roger Tichborne described his own feelings. Writing to his cousin on the subject, he says:

'What I felt when I left my uncle it is difficult for me to explain. I was like thunderstruck. I came back to my room. I tried to pack up my things, but I was obliged to give up the attempt as my mind was quite absent. I sank in the chair and remained there, my head buried in my hands, for more than half an hour. What was the nature of my thoughts, my dearest K., you can easily imagine. The idea that I was obliged to leave the next day and not see you again, perhaps for years, was near bursting my heart. You cannot conceive what pleasure it gave me when my aunt told me you wanted to see me. I saw directly that you felt my going, and therefore determined to tell you all I felt towards you. What I told you, my dearest K., I do not think necessary to repeat, as I suppose you remember. I promise to my own dearest K. that I will be back in England, if she is not engaged, either towards the end of 1854 or the beginning of 1855, and that if she is engaged I will remain in India 10 or 15 years, and do all I can to make her happy.'

He added, that when he left her he went to his room, but was so much oppressed that to think of sleep was impossible, and that he remained up until 3 o'clock in the morning. Well, he left next day, and soon afterwards he wrote to Mr. Gosford stating that he had executed his will, adding, 'The only thing I have left out is about the church, which I will only build under the circumstances I have left with you in writing.'

He then went to Paris, and returned to London on the 30th of January. Next day he received a summons which must have surprised him. It was to hasten to Tichborne, where his uncle had been taken suddenly and, as it was feared, fatally ill. He at once went to Tichborne, and found his uncle in a very critical condition. It seems to have occurred to Miss Doughty at this period that if at any future time when she should be her own mistress, and, her affection for her cousin continuing, she should determine to marry him, it would be a very painful thing that her father should go out of the world leaving a prohibition on the subject behind him. Accordingly, she wished that Roger should see her father and endeavour to induce him to withdraw his prohibition, and prevail on him, if they should marry, to leave his blessing upon their union. Roger waited upon Sir Edward; the old man seems to have been touched by the expression of his nephew's affection for his daughter, and the interview ended by his withdrawing the prohibition and giving a conditional assent. Roger put on paper what occurred; the language evidently is his own, but I cannot doubt that he gives substantially what passed between his uncle and himself. His uncle is supposed to speak as follows:

'My dear Roger,—I know the mutual attachment which exists between you and your cousin. If you were not so near related, I should not object at all to a marriage between you two. But, however, wait three years; then, if the attachment still exists between you two, and if you get your father's consent, as also leave from the Church, then it will be the will of God—then I won't object to it any longer.'

Then Roger is supposed to answer:

'Ever since I have had the pleasure of knowing you and my cousin I have always tried to act towards you two, as also towards my aunt, in the most honourable way I possibly could. The Church, as you know, grants dispensations on these occasions. Of course, if I think I would get my father's consent, as also the leave of the Church, and do it in an honourable way, in the eye of God and of the world.' In the course of his visit, which continued until the end of his leave, conversations were held between his cousin and himself, and at her request he put his thoughts on paper. These documents remain as memorials of Roger's affection, and as his love has been called in question, and it has been sought to convert it into some low, base passion, I will give you his own account of it in his own words. It has been said by the counsel for the defendant that what I am going to read is the effusion of a drunkard, and it has been suggested that the numerous mistakes and the badness of the composition may be accounted for in that way. But let us read it. If written under the influence of drunkenness, don't you think there would be more likelihood that any evil or sinister purpose which might be lurking in his mind would drop up to the surface? It is as follows:

'Tichborne, Feb. 4, 1852, half-past one in the morning.'

'My dearest K.,—You have asked me for the last two days to write my thoughts, and I shall try to satisfy your wish on that point now, when my thoughts are somewhat calmer than they were during the day. I had, as you may suppose, much to think of. At present the nature of my thoughts is, I grieve to say, of a melancholy character. I will, however, make an effort and disclose my thoughts in the clearest way. My dearest K., I am at present in a great state of mind about my uncle and my father. I expect my father to come to-morrow, and I hope he will be able to bear this severe trial with courage. He was not all well when we left Paris last Thursday, and I think he will before long have a very severe illness. I may perhaps surprise you when I tell you I feel a kind of comfort about my uncle. It is a very severe trial which God has sent upon him. I feel it more than I can express, but this is the time when you must show the power of religion, and offer up prayer to God. God will then comfort and reward you by sending you new grace and fulfilling your wishes. God only gives the grace of a good death to those who lead a good and virtuous life. It is a reward to those who practise virtue and give a good example to others. You, dearest K., may perhaps be surprised to hear me talk in this way and not follow the practice.

'I was going on with my confessions, and only stopped to ask you to give me some indulgence if you find it too long and tedious. You, my dearest K., are the only person for whom I ever formed so strong an attachment. I could not have believed a few years ago that I should ever get so attached to another.

'It is painful to acknowledge my thoughts, but as I have undertaken the task I must note them. I had a wrong idea when I left Ireland that you had forgotten me. I wished to show my uncle and aunt that my mind was so impressed with that that it was not my intention to come back from India for 10 or 15 years. To see all these things with a dry eye and an unbroken heart is, in a person who had some feelings of attachment towards another, almost beyond human power. When I came here, however, I found I had been mistaken in the opinion I had formed, and I reproached myself bitterly for ever having entertained such an idea. What took place between myself and my uncle I think it unnecessary to repeat. Until I was obliged to leave by the first train to London I never felt what it was to part with the only person I ever loved, and I shall explain what I mean in the next chapter.

'What I have suffered since and during last night I cannot easily explain to you, my dearest K., what my feelings were towards you. You cannot conceive how much I felt. It breaks my heart, my own dearest K., to think how long I shall be away by myself. The feeling is more than I can tell. You have the comfort of a home and persons to whom you can speak. I have none. I am thrown on the world without a friend; but, however, I shall try to take courage, and I hope when you see me next you will find me changed for the better. I shall employ these three years in reforming my conduct and becoming all you wish to see me. I shall never forget the few moments I have spent with you; on the contrary, I consider them the happiest of my life. You may rest assured, my own dearest K., that nothing in the world will prevent me, except being kept by active service, coming back from India at the time I have stated—the autumn of 1854, or January 1855.

'It will be a great comfort, my own dearest K., when I am in India, to think of you. It will be the only pleasure I shall have. It is such a pleasure to think of the greatest friend I ever loved. If you wish me to come back sooner, I shall not remain five minutes longer in the army than I can help.—Believe me, my own dearest K., your very affectionate.'

Can any one read these words and doubt that the man loved the lady to whom they were addressed with all the sincerity of a warm and devoted attachment? Can any one doubt that attachment was of a pure and noble kind, not of the base and grovelling nature which the counsel for the defendant sought to render it? No, I think it impossible that any candid mind, anxious only about the truth—whatever may be his opinion of Roger Tichborne otherwise—can read these documents without being convinced that, as far as his passion for Miss Doughty was concerned, there was not a single trace of a feeling that was not noble, tender, generous, and pure—

'His love sincere, his thoughts immaculate,
His tears pure messengers sent from his heart,
His heart as far from fraud as heaven from earth.'

Gentlemen, there is a letter written at this time by Roger Tichborne to Mr. Slaughter, in which his wishes with respect to the disposition of the estates are to be found so clearly expressed that I do not know any language of mine could make it clearer. I do not suppose the letter is his own composition, though I entertain very little doubt that the instructions contained in it are substantially his own. It was probably written from the dictation of Gosford. It is as follows:

'Tichborne-park, Jan. 5, 1852.

'My dear Sir,—As I expect shortly to go abroad, it is my wish to complete certain arrangements in regard to my property, which in a former letter I informed you that it was my intention to make. I have thought much of the subject, and it is my wish and intention to leave the Doughty estates in the following manner :

'If I die, my brother Alfred will, of course, succeed to the title and to the Tichborne estate, which, by the settlements of last year, would then be freed, by the aid of the Doughty estates, from the charges upon it.

'With regard to the Doughty estates, I wish to leave them by will to trustees on trust to settle them as follows : First, to pay to my brother Alfred, on his attaining the age of 21 years, an annuity of 2000*l.* per annum, and an additional sum of 1000*l.* per annum on his marriage. I wish him to have the power to charge upon the Doughty estates as a jointure for his wife in the case of his death.

'I next desire particularly to carry out the object which, if I live, I propose to myself—I mean the clearing from the Doughty estates the encumbrances with which they are charged, with the object of clearing the Tichborne estate's encumbrances. I desire, therefore, that from the times that these estates shall come into the possession of my trustees the whole of the surplus rents, subject to the above annuities to my brother Alfred, shall be devoted to this purpose.

'As soon as these encumbrances are paid off, then I give to my brother Alfred, for his life, the whole of the rents of the estates. If my brother should marry and leave sons, the eldest son will, of course, succeed to the title and Tichborne property. I wish him also to take the London Doughty property for his life, or, in the event of his death, then the same to go to the eldest surviving son of my brother. But I desire that Upton-house, and all the property in Dorsetshire, Buckinghamshire, and Lincolnshire, should at my brother's death go to his second and other sons, except he should have but one, when I desire it to go to him, upon this condition, nevertheless, that whichever son succeed to this property shall assume the name and arms of Doughty, and in addition to his own name of Tichborne, or shall forfeit the estates to the next heir.

'If my brother Alfred dies unmarried, or marries and has daughters only, the Tichborne estate is to go to my relation, James Dormer.

'As my Doughty property, by the settlement of last year, is now chargeable with the encumbrances hitherto existing upon the Tichborne estate, and as a further sum of near 40,000*l.* is also raisable to make additional purchases for the benefit of that estate, I desire that my brother Alfred shall have the power to charge upon those purchases, or upon whatever interest I have in those charges, to the amount of 20,000*l.*, to be divided equally among all his children except the eldest. And I give up in favour of my cousin, James Dormer, all further interest in those charges ; provided that on coming into possession of the Tichborne property he uses and assumes the names and arms of Tichborne after and in addition to his name of Dormer.

'In the event of my brother Alfred's death without leaving sons, then I desire to continue the succession to the second or other sons of my cousin, Katherine Doughty, or, if she has but one son, then to him. But if my brother or cousin should have daughters only, I wish the estate to

go to the eldest and other daughters of my brother Alfred in succession and their heirs ; or, failing them, to my cousin for life, and then to the eldest and other daughters of my cousin Katherine Doughty. And if I should be in actual possession of the estates at my death, I direct that my trustees shall offer to my cousin, Katherine Doughty, till her marriage, the free use of Upton-house and the gardens attached, for a residence. I further desire to give my brother Alfred the power to charge 30,000*l.* on the London Doughty estates for the benefit of all his children (except the eldest son) in equal shares, but that money not to be raised till my brother's death.

'As to the Surrey property, I give the power to my trustees to sell it and apply the money to the clearing off of the encumbrances on the Doughty estate.

'My private wishes and intentions, as I intend to have them carried out if I live, I have confided to Mr. Vincent Gosford.'

And on the 17th of January he wrote to Gosford : 'I have written my will and left it with Slaughter ; and the only thing I have left out is about the church, which I will only build under the circumstances which I have left with you in writing.'

Gentlemen, it is important you should bear these testamentary dispositions in mind, because we shall see by and by what the defendant said on the subject. If you are satisfied Roger Tichborne made these testamentary dispositions with a perfect knowledge of what he was about, if they were the production of his own mind and his own independent will, and if you compare them with the knowledge or ignorance of these dispositions exhibited by the defendant, you will be able to form a judgment whether he can be Roger Tichborne or not. Seeing how painfully his aunt and Miss Doughty were affected by this circumstance—that he had sometimes drunk too much—immediately on his return to Clonmel he wrote a paper in which he records a vow never to drink spirits again. Writing to Miss Doughty, he says : 'My dearest Kate,—I give you my word and honour that I never will, from this day, drink a single drop of spirits of any kind whatever.—I remain your very affectionate cousin,

R. C. TICHBORNE.

'Feb. 15, '52, 3 o'clock in the afternoon.'

At this time Lady Doughty, having been informed of what Sir Edward had done, gave also a conditional assent to the future marriage of the cousins ; but her daughter was to wait until she came of age. And, if in the mean time she should see some one whom she likes better, it was to be no engagement. Then Roger writes to Lady Doughty a remarkable letter, showing what a resolute effort he was making to reform his conduct as his aunt desired. He says :

'Artillery Barracks, Clonmel, Feb. 28, 1852.

'My dear Aunt,—I hope that you will excuse the long delay in fulfilling my promise. I was not able yesterday week to write as long a private letter as I could have wished for want of time. I shall try to do so to-day, though I cannot promise to finish it this evening, as I have much to think of before I write.

'I have, as you are aware, begun in a firm and determined kind of way to reform my conduct in every way in which I thought it required alteration. I have, among other things, begun by giving up drinking altogether. It is not without much struggle and firm determination of mind that I have been able to keep the promise which I gave Katty before I left Tichborne. It is so much more

difficult for me to keep from it that I am at present in low spirits (I don't wish in the least to excuse the vice of drinking), but it is in those cases when a person feels himself low that he wishes to drink, not to do wrong, but as a relieve. I think twice, my dear aunt, before I give my word of honour, because I consider it as such a sacred thing that if ever I was to act contrary to what I have promised, I would consider it as such a disgraceful spot on me that I would not dare to show my face before you or anybody else, because I think that a man who cannot keep his word of honour never can be believed or trusted, and he is for that reason worse than a brute. I am at present taking care of myself, thing which I have never done before in my life. I am taking the different physicks which Mr. Lyscomb advised me to take. I hope with the help of God to become before long what you wish to see me.

'Several persons have remarked how much I was changed, especially in the drinking line. To all inquiries I answer that drinking might do some time or other in England, but never would do in India. To that they told me that I was perfectly right, but that they never would have thought that I could have brought myself to a change so suddenly.

'I have, at least I hope that I have, fulfilled my promise. I have written in this private letter what has been my line of conduct since I left you. I hope that you may approve of the effort which I am making. If there should be any expressions which you do not like pray excuse them, because I should be sorry if you were offended against me. If there should be anything further which you wish me to tell you or to explain Pray let me know. I shall do it with pleasure. I received your last letter this morning, and read it with attention. Pray let me hear from you soon. It will give me much pleasure to receive an answer to this letter.—I remain, my dear aunt, your very affectionate nephew,

'R. C. TICHBORNE.'

Then comes a letter, in reply, from Lady Doughty:

'Tichborne, March 4, 1851.

'Yes, dearest Roger, be assured I am gratified and delighted with your private letters, and I bless God for the change that He is effecting in your disposition, for it is His holy work; many a hard struggle you must have had, I know, to conquer the bad habits of yours, and very strong temptations to return to them. . . . On one more subject permit me also to touch, that is you have often argued that because you have read every bad book, and therefore, alas, know every shade and refinement of vice, it can do you no harm to continue: be assured that this is a device of the devil: we cannot let our mind dwell—as it must in reading a vicious story—on vice, without, more or less, being tainted by it. This also may cost you much, but it is worth the struggle, and far best to turn over a new life at once. I can well understand you being out of spirits—I hope God will support you. . . . With kindest love from your uncle and cousin, be assured how obliged I feel by your own expression that you hope soon to be all I could wish to see you. I have, indeed, prayed to see you filled with religious and noble feelings and with steady habits, so that all around you may respect and love you. It is ordained by God that a wife should look up to her husband. O how deplorable the fate of that being whose life is to be spent tied to a man addicted to degrading vices. So, dear Roger, I

trust to your sincerity. You have never yet deceived me, I believe. God grant that I may ever feel that I am your affectionate aunt,

'K. DOUGHTY.'

To this letter Roger sent the following reply: 'Clonmel.

'My dear Aunt,—I am much obliged to you for the confidence you place in me. I am now, I am happy to say, quite changed for the better. I have given up drinking spirits altogether, and I am besides very careful about what quantity of wine I drink. I moreover take of myself—which is a thing I have never done before in my life. I am, as you may fancy, low in spirits, in mind. It requires a strong determination when a person finds himself low in spirits not to take drink as a relieve (*sic*). It is not without a struggle that the good may have the best. But, however, I hope with the help of God to keep the promise (*sic*) which I have given, and to become in course of time what you wish to see me.—Believe me your very affectionate nephew,

'R. C. TICHBORNE.'

At this time the troop in which Roger was left Clonmel and went to Waterford. Roger, however, remained in Clonmel, with the incoming troop. But in the month of October, between the 20th and 29th, he left Clonmel and rejoined the A troop under Captain Polhill, to which he properly belonged. Soon after rejoining that troop at Waterford we find him back again in Clonmel, and writing from that town on the 14th of February, and there he stayed, as far as we are aware, until his troop joined the rest of the regiment, when it was about to be converted from a heavy into a light corps for the purpose of going out to India. On the 26th of March we find him settled at Portobello Barracks and carrying on his correspondence from those quarters. Writing to Mr. Gosford, he informs him that Mr. Slaughter had sent him a copy of the deed that he might study it himself; so that it was not merely that he had sent instructions to Mr. Slaughter, but he had said to that gentleman, 'Have the kindness to send me the draft to study myself,' that he might fully understand it. He writes to his aunt on the 17th of April 1852, from Dublin:

'My dear Aunt,— . . . I went to the St. Patrick's Ball. I met there C. Bellow and S. Berkeley, both having the militia disguise for the occasion. Bellow has, I am sorry to say, broken his arm out hunting. . . . Pray give my love to my cousin.'

And again, in a few days after, he writes the following letter: 'Dublin, April 22, 1852.

'My dear Aunt,— . . . I saw Lord and Lady Bellow, when they were in Dublin, with C. Bellow. They were kind enough to ask me to go and spend some time with them at Barmeth, but I was not, to my great regret, able to accept their kind invitation. I have also seen S. Berkeley. I don't know if his visit to Ireland was caused by his love to Lady St. Lawrence, &c.—Your very affectionate nephew,

R. C. TICHBORNE.'

It would seem from these letters that at this time Roger saw a good deal of society in Dublin. Then we come to a subject which was always a sore point with Roger—namely, the proposal to sell Upton. Gosford had been commissioned to write to him on the subject, and he wrote back two letters, one marked 'private and confidential' to be seen only by Gosford, in which he complained that, after having granted to his family all that they desired in the deeds and settlements, they should have annoyed him by the proposal.

Gosford's letter. Soon after, it appears that he had an attack of illness, for we find Lady Doughty, who was then in town, writing to him thus:

'London (no date).'

'My dearest Roger,—By a letter from your father I am aware he has written to you respecting your health. I was aware of the report that you have had another attack upon your chest, and that the surgeons think that India will be most dangerous, if not fatal. Do, dear Roger, let me know the real truth. . . . I cannot express how anxious I am to hear from you. Dear Roger, pray take care of your health, which is so precious to your friends.—Your affectionate aunt,
K. DOUGHTY.'

Now, there was nothing which hurt and exasperated Roger so much as to have anything said about his health. Whether it was that he had some idea that any illness of his would be attributed to bad habits on his part, I don't know; but at all events he writes very angrily and even coarsely on the subject. In one letter he says: 'I am sure Dr. Brown writes about things that he knows nothing about.' In another place he says: 'It is wonderful I have seldom come within the reach of a priest or a bishop that they have not done me some mischief or other. That is one of the reasons why I seldom go near them.' Then he writes to his aunt: 'I regret that the persons who spread the report about my illness did not take more trouble to ascertain whether it was true.' He writes, in the same cross way, to Mr. Danby Seymour, who also inquired about his health. He goes on to say that he had been at several balls; and that shows that in his second residence in Dublin in the middle of 1852 he was entering into all the amusements which a young man in his station of life would be likely to do. The last letter which I shall read from Ireland is dated Dublin, May 31, 1852, the day before he left Dublin to go to Canterbury. The letter is to his mother, who had also made inquiries about his health: *'Portobello Barracks, Dublin.'*

'My dear Mother,—Many thanks for your last letter, which I had the pleasure of receiving the day before yesterday.

You ought not to make yourself unhappy about me. I enjoy very good health. I am very sorry that Dr. Brown before writing to you did not take the trouble to get better information. I have had the opinions of the very best doctors in Dublin, and they all told me that there was nothing whatsoever the matter with me, so I wish, my dear mother, that you set your mind at ease about me.

'We are to leave Dublin for England on Tuesday morning. I shall not be sorry to spend a short time in an English quarter before leaving the country.

'I have not been able to see Lady Bellew since I received your last letter. She has not been in Dublin for some time. I went some time ago to spend the day with Lord and Lady Bellew at Barmeth. They had the kindness to ask me to spend some time with them there, but I was sorry not to be able to spend more than a day there. I was sorry that you have not been able to see Edward Bellew,—he is a nice sort of young man.

'I have been lately to a very great many balls, and parties, which has made my time pass on rather quickly.

'Monday.'—I was not able to finish my letters yesterday on account of all the bustle and packing up of my things.

'I fancy that Paris must be, I have no doubt, very gay at present.'

'The last fête which the President gave must have been one of the finest things in the world to see.

'I hope that you feel yourself better at present, and that you take more care of yourself. It is certainly a great misfortune that you will not take any of the doctor's advice. In your state of health, you would find yourself by far the better from it.

'Pray excuse this hurried note. I have so much to do at present, that I have not time to write any more.

'I shall write to my father soon after my arrival at Canterbury. We will be some time to arrive there, as we are going all the way by sea, which will take us two or three days. We are to land at Hearn's Bay, which is the nearest point to Canterbury; it is only 7 miles distant.

'Pray give my love to my father.—I remain, my dear mother, your very affectionate and dutiful son,
R. C. TICHBORNE.'

Gentlemen, you will form your own opinion whether those letters I have read from Roger Tichborne on a most important subject, together with the letters received from Lady Doughty, were likely or not to leave a lasting impression on the memory of that young man. That memory must have been one upon which time has made cruel inroads if such a correspondence could be entirely obliterated.

We have done for the present with the life of Roger Tichborne in Ireland, and we now come to the second branch of his history as connected with his career in the army—namely, the time he spent at Canterbury. The regiment left Dublin and marched immediately to Canterbury. On his arrival there he received a letter from Lady Doughty, stating that she and her daughter were about to pay a visit to London, and asking Roger to come up to town to see them. He does so, and is in London on the 9th. The first thing which occupied his mind after arriving at Canterbury was the completion of his will, with regard to which he addressed the following letter to Mr. Gosford: *'Canterbury, June 9, 1852.'*

'My dear Sir,—I went up to London yesterday. I went to see Mr. Slaughter. I settled with him about my will. It will be ready for signature on the 14th of this month. An order came this morning for us to get back our horses; we are not, it appears, to go abroad for two years at least. I don't know what to do, &c.—Yours truly,
'R. C. TICHBORNE.'

On the next day he writes in the following terms to Lady Doughty: *'Canterbury, June 10, 1852.'*

'My dear Aunt,—I have forwarded my application for leave from the 15th to the 23d of this month. I have no doubt I shall obtain it. I shall leave on Tuesday by the first train. I shall go straight to your hotel to see you. Pray give my love to Katty, and believe me, my dear aunt, your very affectionate nephew,

'R. C. TICHBORNE.'

He came to London on the 9th, and saw Lady Doughty and his cousin. It is evident he had some conversation with Lady Doughty on the subject of her daughter. Whatever may have been the state of her mind at the commencement of the year, when the proceedings took place at Tichborne in January and February, it seems that at this time Lady Doughty was inclined to oppose the marriage, and to prevent it if she could. She was not prepared to break off the engagement, but seems to have been desirous of putting it on this footing—that while Roger Tichborne should pledge his troth to be ready to marry his cousin at the end

of the prescribed time, supposing he still entertained the same affection for her, Miss Doughty should be under no pledge whatever, but should be at liberty to accept the offer of some one else. I cannot help thinking Lady Doughty had a wish in her mind, though it was not openly expressed, that some such offer might be made by an eligible party. She was very fond of Roger evidently, but while she did not want to break off the engagement entirely, she was anxious to keep him, as it were, in reserve. This was plainly the state of Lady Doughty's mind, as will be seen by the letters I shall read to you. She was playing fast and loose with Roger. On the 11th of June she addressed to him the following letter :

'York Hotel, London, June 11, 1852.

'My dearest Roger,—Never think I can be offended by your asking me any questions; I love you too sincerely. . . . Now to answer your letter as to our being reserved to you, and, secondly, as to the reports I have heard. I feel the difficulty of answering, because we are all in a false position towards each other, which ought to be cleared, no party really knowing the exact position or present feelings of each other; nor can this be cleared partly by any one but yourself, and my part is most difficult; and I must now trust to your honourable feelings and write the truth. The world has given out so decidedly that you and your cousin are engaged that though we contradict it—for you know there is no engagement—still it has prevented any one coming forward, and, in fine, the report has met us everywhere, and must, perhaps, have caused reserve. Now, in reality, neither of you have made up your minds to any final decision; but it would be but sincere and honourable, and a guide, if you kindly told me, in confidence, your wishes. Recollect, however, we have no reason as yet to think that the resolutions you made in the winter have been kept. It is not keeping a resolution against drink if any persons or circumstances have power to draw you into it; moral courage should rise above the temptation. I have no reports to repeat more than, of course, your illness is said to have been caused by smoking and the usual attendant—drink. You deceive yourself, I fear, and in reality take more than you think. Be that as it may, without real religious feeling to guide you, you will throw life away, and ruin your own happiness in this world and the next. Still, dear Roger, though your constitution has received great shocks, a resolute change of habits might save you; but it must be an entire change—it is a crisis in your life; do reflect, and when you speak to me do it openly and sincerely. This I feel your own sense of honour should dictate, and then be assured I am your affectionate aunt and sincere friend,

'K. DOUGHTY.

'P.S. When you write or speak to me it should be without reserve and perfect candour. The future is too much at stake for mystery.'

He writes this letter in reply :

'(Private and confidential, to be burnt as soon as read.) Canterbury, June 12, 1852.

'My dear Aunt,—I shall do what I can to answer your last letter, which I had the pleasure of receiving this morning, with the same confidence which you have showed me, and for which I feel very grateful.

'You may rest assured that whatever confidence you may place in me is quite safe, and that I shall always do what I can to make myself worthy of it.

'I don't know what has given rise to the different reports to which you allude to in your letter. I

have never told anybody whatever what engagements might or might not exist between me and my cousin. I have certainly my reasons of suspecting some persons, who spread those reports about for the sake of doing mischief; but persons who take so much trouble in meddling in other persons' business are those, generally speaking, who know least about it. It is, I must acknowledge, rather disagreeable for you and another person. For my own part, it is not so much so, I must confess. My mind is fully made up, and I am quite ready to hear anything for or against it, because I am fully aware what persons who spread reports of that nature are worth.

'For my own part, dear aunt, I have told you last winter, and I daresay that you have not forgotten that day (January 4, 1852) what I said on that day. I had been long to think about it, and to take my final determination. I studied my own heart and feelings. I saw quite plain that I had habits which you or anybody else could not approve of. I knew quite well that I had strength of mind to correct those bad habits, though the task was not an easy one, but I thought twice over before I could make up my mind to let you know what my feelings were (I think it more honourable to acknowledge my own faults, though it is to my confusion). When I was quartered at Waterford all by myself, with some few infantry officers, we did not know what to do with ourselves all day long, so when we used to assemble together in the evening we used to drink very hard only for the sake of spending the time; for nothing else. It brought on me, as could be expected, a violent illness, which, not being properly cured, came back again when I was in Dublin.

'Since I came back from leave it has been my daily study to try to improve. I don't drink anything to what I used to drink formerly. I have, I can say, improved in many other respects.

'What has taken place during the latter part of the time which I spend at Tichborne, you will, I daresay, remember it so as to make it unnecessary for me to write it over again.

'What affection I have felt for my cousin when I was at Tichborne, instead of decreasing, is much stronger now than it ever was. Whatever the case may be now or in future, I shall always be but too happy to do anything to please and oblige her in any way which I have in my power, though I shall be most likely far away very soon. If you hear any more reports going about, you may rest assured that they never come from me.

'But, however, my dear aunt, I am in hopes of making an exchange into the 12th Lancers at the Cape of Good Hope before long. I shall remain there most likely two, if not two years and a half. If my cousin has not changed by that time, then what can be done will be done at once. I hope and trust, my dear aunt, that you think I have acted in an honourable manner; at least such has always been my wish.

'If you wish me or if you like to give out yourself my final decisions about me and my cousin, I shall do so or you are at liberty of doing it yourself, but, however, I leave all to you. I hope and trust, my dear aunt, that I have not offended you. If I have done so I am very sorry for it.

'I rely on your word of honour to keep every word contained in this letter a perfect secret to everybody, and moreover to burn the letter as soon as you have read it.—Believe me, my dear aunt, your very affectionate nephew,

'R. C. TICHBORNE.

'Nobody whatever will ever hear from me

single word of what I have said to you in this letter.' Here he does not give a specific answer as to what his intention is or what he will pledge himself to with regard to his cousin, but he says in effect: 'You know what passed when I was at Tichborne at the commencement of the year. I refer you to what I then said, and you can give out any final determination you please about me and my cousin.'

On the 13th he writes thus to Mr. Gosford about his will: *'Canterbury, June 13, 1852.'*

'My dear Sir,—I went to town last Wednesday for the day, saw Mr. Slaughter, I read my will over with him. I was much pleased with it, as it expressed exactly what I wished. It will be ready for my signature on Tuesday. I saw Lady and Miss Doughty when I was in London. My cousin seemed to enjoy my stay in town very much. I was happy to hear my uncle was better. —Yours, &c., R. C. TICHBORNE.'

While Lady Doughty and her daughter were in town, Roger appears to have accompanied them to places of public entertainment and to have gone out with them on an evening, and I dare say he did not feel the slightest apprehension of having the relations between himself and his cousin brought to a speedy termination, as afterwards happened. On the 19th there came the tidings that Sir Edward Doughty was taken seriously ill. Thereupon the stay of his wife and daughter in London was brought to an abrupt termination. It was necessary for Lady and Miss Doughty to go to Tichborne, and Roger was asked to accompany them and to stay there during the two or three remaining days of his leave. It turned out, however, that Sir Edward's illness was not of a serious nature, and he very soon got better. They arrived at Tichborne on Saturday, the 19th. Roger stayed there on the Sunday and Monday, and on the 22d he left Tichborne. One of the questions in this case is, whether he was really at Tichborne again. In proof that he was there are the oaths of Lady Radcliffe, of Lady Doughty, of Mr. and Miss Nangle, who were staying in the house at the time, and of Mr. Gosford. It seems his cousin thought it would be desirable that an attempt should be made to persuade her father to allow her to marry Roger Tichborne at once, in which case he would have given up all idea of going to India and have entirely quitted the army. But Sir Edward was firm upon the point. Very likely he spoke on the subject to Lady Doughty, who kept him up to the mark. His answer was that the cousins must wait. Lady Radcliffe has given us an account of what occurred. She says that Roger applied to her father, and tried to induce him to consent to their being married at once, but he said, 'No; you must wait till the time comes, and we will not abridge the intermediate period.' This being so, I take it for granted some conversation on the subject must have been held between Roger Tichborne and Lady Doughty, and she must have promised to give him fuller particulars. That led to the letter of the 1st of July. Until Lady Doughty gave her evidence, and it appeared that Roger had asked for an abridgement of the period of probation, I confess I was never able to understand the letter of the 1st of July, but that evidence fully explains it. By seeking to precipitate matters, Roger only defeated his object and brought disappointment upon himself, for Lady Doughty used her influence with Sir Edward, and not only absolutely prohibited all notion of marriage at an earlier

period than had been fixed, but wanted Roger to give a more express pledge than he had given in a previous letter, while she made him distinctly understand that his prospect of marrying her daughter was altogether a precarious one. While he on the one hand was to pledge himself, Miss Doughty on the other was to have perfect liberty to choose any one else.

After Roger had had this interview with his uncle and the conversation with his aunt, but before his hopes were completely crushed, as they were by the subsequent letter, he was walking with his cousin, and produced a paper the genuineness of which cannot be doubted, wherein he records a second time a vow to the Blessed Virgin to build a church in the event of the union with his cousin taking place. This was on the 22d of June, and the paper was in the following terms:

'Tichborne-park (22d June 1852).'

'I make, on this day, a promise that if I marry my cousin Catherine Doughty this year, before three years are over at the latest, to build a church or chapel at Tichborne to the Holy Virgin, in thanksgiving for the protection which she has thrown over us, and in praying God that our wishes may be fulfilled. R. C. TICHBORNE.'

There is no doubt about the genuineness of that document, and it is a strong confirmation of the evidence given by Mr. Gosford to the effect that a similar document was left with him at an earlier period of the year. Well, Roger leaves Tichborne on the 22d, and goes back to Canterbury.

According to the view last propounded by the learned counsel for the defendant, which is certainly not in conformity with the original statement of his client, it was on the occasion of this visit to Tichborne, between the 19th and the 22d of June, that the seduction of his cousin took place, and the learned counsel refers, among many other things, to a letter written by Roger Tichborne on his return to Canterbury. He says that Roger Tichborne, having done this, was in a bewildered state of mind, and that that state of mind is shown by what he wrote immediately on his arrival at his quarters. On the 26th of June, writing from Canterbury to his aunt, he says:

'I have been in such a state of confusion ever since my arrival at Canterbury that it has been quite impossible for me to write to you sooner.'

That confusion, says the learned counsel, arose from the disorder into which his mind was thrown by the consciousness of having committed a grave crime—of having sinned against hospitality and against honour. If the learned counsel had turned over the page—and it is a pity he did not—he would have seen that this confusion receives a perfect explanation. Roger Tichborne writes the same day to Mr. Gosford excusing himself in like manner for not having written in consequence of the state of confusion 'arising on account of my changing my quarters.' It is a confusion, not of mind, but of furniture, boxes, and things of that kind which have arrived from Ireland, and are being set to rights. I must say I do not think it is consistent with forensic propriety to read the first letter, which is capable by possibility of a twofold interpretation, and to omit to read the second, which clearly explains what was meant. On the 30th of the month he writes again to Mr. Gosford: *'Canterbury, June 30, 1852.'*

'My dear Sir,—I have forwarded two boxes. . . I cannot make out why I have not received any letters from Lady Doughty. I don't know what is going on at present at Tichborne. I have not heard from that part of the world since I left. I don't

intend writing there again till I hear from Lady Doughty. I feel very anxious to receive a letter from her.—Yours truly, R. C. TICHBORNE.' In a previous letter, dated from Canterbury on the 26th of June, and addressed to Mr. Gosford, he says :

'My dear Sir,—I have been ever since my arrival at Canterbury in such a state of confusion on account of my changing my quarters that it has been quite impossible for me to write to you sooner to inquire how things in general are going on at Tichborne. I am in hopes of hearing from Lady Doughty soon. I hope that she won't show too much diplomacy in her letter; things are much too near a crisis for it; moreover, her ladyship is rather a poor politician. I can see through it quite clear (sic). I should feel much obliged if you had the kindness to send me a French work which I bought in London, which I have forgotten at Tichborne.

'The work is called *Mon Voisin Raymon*, in four volumes. You will find it in my sitting-room.—Believe me, dear Sir, truly yours,

R. C. TICHBORNE.'

Mr. Kenealy enlarged very much on the last passage in this letter, asking how Roger could have been in love with his cousin if, just after having left her society, he wrote to Mr. Gosford for a copy of an immoral French book. The work in question is one of Paul de Kock's novels, and of course it is an indelicate and immoral work. I daresay the learned counsel for the defendant knows its character better than I do, because I daresay he has read it, whereas happily I have not.

A Juror.—Did he not read an extract from it?

The LORD CHIEF JUSTICE.—I think the extract was from Balzac, but I am not sure. Perhaps it would have been better if Roger Tichborne had read some purer book, but because a young man reads Paul de Kock in his leisure hours and finds delight in the racy humour of the writer, even though it be contaminated by coarse indecency, I don't know why you should assume that young man is necessarily unprincipled and black-hearted, as the learned counsel has sought to impress on your minds.

Well, after Roger Tichborne gets back to Canterbury, Lady Doughty, who had promised to write and tell him what were the views of her husband on the subject of his proposal to marry his cousin at an earlier period than was originally intended, sends him the following letter, dated the 1st of July 1852 :

'Tichborne-park, July 1st.

'My dearest Roger,—I thank you for your kind letter, and should have answered immediately, only your uncle wished for full time to consider over all that has passed, and though it is a painful task to me to write what may give you pain, it is no use delaying longer without telling you that he says he sees no reason to change from the decision he made during his illness, "that of not giving consent till our daughter was of age, and that she must be at perfect liberty to marry any person; in fine, that no engagement whatsoever should take place between you," added to our considering her too young to decide upon a choice that involves going contrary to the wishes of parents (we presume on both sides) and which is against the rules of the Church. You have not given any real proof of changing habits that have been the cause of endangering your life by bringing most serious illnesses, and which without resolute and determinately giving up will certainly bring on a

return of the same illness. Now, without a long continued proof of these bad habits being entirely conquered, no parent (even if there was no relationship) would think themselves justified in giving their child to a person who, neither from a sense of duty to God or the attachment to their child, could conquer habits that would be the ruin of the happiness of both; these, then, are our objections, and it is best you should clearly know them. You asked that our child might have permission to write to you. We certainly see great objections to this, for, being under age, she cannot act without the consent of parents; therefore the less communication you have under these circumstances the more free it leaves both. Now, dear Roger, though I have fulfilled the duty that devolves upon us, you are, of course, at perfect liberty to act in this matter as you consider best for your own happiness. I only ask that you will write and tell me your decision after you have well considered over this letter, and that you will not take any precipitate measure, but write clearly your own views in a letter that may equally be read by your uncle as well as myself.

'Your uncle and cousin send their kind love. Write soon to your affectionate aunt.

'K. DOUGHTY.'

Of course Roger felt that these were very hard and very unfair terms, and while Lady Doughty puts forward as one of the reasons for insisting on them the plea that he had not given proof of his reformed conduct, he resents this allegation, and complains that she should have listened to the statements of anybody else against his word of honour pledged as a gentleman. On the 2d of July Roger wrote from Canterbury to Mr. Gosford :

'It is quite plain by the letter I received to-day from Lady Doughty that she has at last gained her end. I was sorry to see in her letter some remarks to which I never thought of being subjected. It is the first time I can remember of mere reports being received in preference to my word of honour.'

He adds in a postscript : 'It is not my intention to go back to Tichborne for a long time to come.'

About this time the election was going on for Poole, and Mr. H. Danby Seymour, thinking that Roger, as future proprietor of Upton, might have some influence with some of the voters there—and the election was a close one—writes to ask him to come and help him if he could. Accordingly Roger went, after having got leave for the purpose. From Poole he sent the following letter to Lady Doughty :

'Poole, July 7, 1852.

'My dear Aunt,—I shall sleep at Winchester to-night on my way to London. If you would let me know if you are coming to Winchester to-morrow I shall wait, because I know that I can make more in half an hour's conversation than in a week correspondence.—Believe me, my dear aunt, your affectionate nephew,

'R. C. TICHBORNE.

'Pray don't be offended, but I don't wish to go back to Tichborne for a long time to come.'

He refers to the subject in a letter which he afterwards writes to Mr. Gosford, making an appointment to meet him at the White Hart, in Winchester. He stopped at Winchester on his way back from Poole, but somehow or other Lady Doughty missed him. So, after waiting for the next train, he proceeded on his journey. On the 12th she writes to him, suggesting that it would be better for him to let his father know his

feelings before a report, then widely circulated, reached his ears. Then he writes her this letter, in answer to hers of the 1st of July. There is no date to it :

'My dear Aunt,—I have perhaps delayed too long to answer your letter received last Friday; but I am sure you will excuse me when you think that I have to answer on a subject which requires much consideration before answering in a manner which can be satisfactory to you as well as myself. You have alluded in rather a strong manner to bad habits which I had, I acknowledge, to a strong degree last year, but I have told you (and I believe you can believe me) that it has been my daily study ever since the beginning of this year to break myself off from those habits which were not all what I ought to have, especially in my future station of life. I should feel sorry M. D. A. if you thought that I kept my C. under any kind of engagement towards me. If she thinks for a moment that she can be happier by marrying who she fancies let it be so. I have always been uncommonly fond of my C. (as you perhaps know) ever since I saw her the first time, but I never loved her but for herself only, and if I see that she will be happy by marrying I will be the first to encourage it. And if in some future time I can be of any service to her it will always be a great pleasure to do anything I possibly can for her. And moreover what has taken place will never be told to anybody whatsoever by me as long as I live. As far as I am concerned it is fully my intention if I, my C. marries to make the army my profession to go abroad with my Regiment. (There is a strong rumour that we are to go either to Australia or India in the Spring.) I care little were my Regiment will be sent to. I shall go with it to any part of the Globe where it may be sent to. I am in hopes that I have answered your letter as you wished it. I hope that you won't be offended as it has never been my intention to offend you in the least manner. Believe me, whatever the case may be, your very affectionate nephew,

R. C. T.

'P.S. It is not my intention to go to Tichborne again for a long time to come, unless you and my uncle express a wish to see me either now or during the leave I applied for in the winter.'

I believe, gentlemen, he could not have written anything which would be more satisfactory to Lady Doughty than the words conveying his intention not to go to Tichborne again. Lady Doughty answers the last letter in this way :

Tichborne Park.

'My dearest Roger,—I received your kind letter by Mr. Gosford; it is perfectly satisfactory to your uncle and myself. You need not, however, have felt displeased with what I said respecting the habits you have had, and which you candidly owned. By what I said I did not express doubt of your word or intention—only that under certain circumstances proof of change for a considerable time would, as Sir Edward's opinion remains unchanged. Pray if you cannot write or speak openly to Mr. Gosford, to tell us. The report is so widely circulated that it must reach your father's ears, and therefore would it not be best for you to know your real feelings. Be assured that beyond the duty we owe to you and to our child that you will find your uncle and myself sincerely attached to you, and I am, your affectionate aunt,

K. D.'

She goes on to say that the primary objection to the marriage is the relationship, and adds: 'We are satisfied that you are right in not naming any-

thing to your father unless questioned, and then sincerely stating the facts as they are.'

About this time Roger Tichborne writes as follows to Mr. Gosford :

Canterbury, July 13, 1852.

'My dear Sir,—I was rather surprised to hear how very fast things are going on at Tichborne. I had no idea that her ladyship was in such a hurry. Have you heard? &c. I should greatly feel obliged to you if you had the kindness to write to me to let me know how things are going on and if the crisis has taken place, as it is not my intention to go to Tichborne again. Pray let me know if my cousin is changed.—Yours, &c.,

R. C. T.'

The allusions in the correspondence to his father are important, because the defendant, in one of his statements about the sealed packet, says 'his father pressed him to marry his cousin.' It is, however, evident from the letters that his father knew nothing at all on the subject until all relations between the cousins were put an end to. Writing to Mr. Gosford, Roger Tichborne says :

'Lady Doughty in her last letter says it will not be prudent to mention matters to my father unless he mentions them, but says in that case I had better answer in an open and sincere manner. I have always done that, and it appears to me I have acted too openly when I found idle tales are believed in preference to my word.'

Then he writes to Mr. Henry Danby Seymour :

Cavalry Barracks, Canterbury.

'My dear Henry,—I was very happy to learn by yesterday's paper you send me this morning on my departure from Poole that you had at last been elected. I was sorry that my being so little known prevented me from doing more for you. I heard from my father about a fortnight ago. He mentioned his intention of coming over to England with Alfred towards the latter part of this month, or the beginning of next. I was almost at loss for news. Everybody seemed to have given up the habit of writing to me. My uncle is, by what I have heard, passed through Winchester, one day well, another very low. I could not help remarking, the last time I saw him, how much weaker he was than when I saw him last winter. I am afraid the autumn and winter will be very trying to him. Much has been said lately of giving us a compensation for all the different expenses to which we have been put; but I don't think that the chance of the Government giving us any sum of money is worth altogether sixpence. Pray remember me very kindly to Mrs. Seymour and your sisters, and believe me, my dear Henry, yours truly,

R. C. TICHBORNE.

'July 19, 1852.'

On the 28th he writes as follows to Lady Doughty :

Cavalry Barracks, Canterbury, July 28, 1852.

'My dear Aunt,—Many thanks for your last letter, which I have the pleasure of receiving the day before yesterday. You must have been no doubt much amazed when you heard of my going to the elections. Henry Seymour wrote to me expressing a wish that I should be with him at the time of the election, thinking, no doubt, might have some kind of influence in Poole. I started at once, trying to find out what on earth had put it in Henry's head that I had influence in a place where I am not much more known than the man in the moon. As soon as I arrived I began my campaign with Mr. Woollet, who I find very obstinate in refusing to give his vote. I talked about two hours on the subject but to no purpose. I might just as well have sung "I am afraid,"

for I got—I don't think you have seen in the papers what have taken place at Limerick. The mob was so violent against the 3d Dragoon Guards, who had been brought there on the occasion, were ordered to charge the mob was given (which duty they performed, I am sure, with no small degree of pleasure). Three priests were knocked down in the charge, who were exciting the mob against the troops in the most violent manner. Their major, a lieutenant, and 11 men were knocked down from their horses, and near killed with stones. As they were not able to take care of themselves, fresh troops have been sent over from England to take care of them. Ireland is a delightful country, where civilisation and polished manners are well understood. I was very sorry to learn by your letter that you had not been so well lately as you could have wished. I hope that you feel yourself better. I suppose that my father and Alfred are arrived at Tichborne by this time. I hope that Alfred has such a good full moon face as he had last winter. Is it true that he wishes to go into the Marines? If such be the case, he better get his name put down at once, because, promotion being very slow in that wonderful regiment, he will have to wait a long time for his commission. This is not bad quarter, though very slow; by far better than the quarters in the south of Ireland. We have to deal with civilised persons about here, which we have not in Ireland. If I was obliged to go for five years in the north frontier of the Cape of Good Hope, or three years in the county of Tipperary, I would sooner go to the Cape to-morrow than go to Ireland again. The weather has been of late very hot indeed, and if it goes on much longer I shall have to wear some of the clothes which I had made when I was going to India. Several of our officers have gone to the races. They have obtained few days for that purpose. There are a great many rumours going about us, but it will all end, I believe, in our going to India in the course of two or three years to relieve the 14th. Having been made light, we must go to India some time or other. I hope that my uncle feels better now. Pray give him my love, as also to my father and mother, and also to my cousin.—I remain, my dear aunt, your affectionate nephew,
R. C. TICHBORNE.

It certainly does not appear likely that he had received a deputation asking him to stand as a candidate for Poole when we find him stating he was no more known there than the man in the moon.

On the 30th of July 1852, Roger wrote to Mr. Gosford from Canterbury:

'I have received a letter from my father informing me of his arrival at Tichborne, and expressing very strongly his wish that I should go there for a short time, but that is a thing to which I should strongly object.'

At this time Roger Tichborne's mother conceived the idea of visiting England while her husband and her younger son were at Tichborne, and she wrote to Roger saying that she should come to see him at Canterbury. In reply he sends her this characteristic letter:

'Canterbury, 2d August 1852.

'My dear Mother,—I am much obliged for your kind wish of coming over to see me, . . . but I have written to my father, and if he approves I shall take a house for you and him at Dover. I shall write you again in two or three days.—Believe me, my dear mother, your very affectionate son,
R. C. TICHBORNE.'

Then we have a letter from him on the 7th of August, which is important, because this is the critical period with reference to the Brighton card case. There are three days on which it is impossible to prove positively that he was at Canterbury, but still there are circumstances which tend to show that he had not been away from that city on the 4th, 5th, and 6th of August, on which days the Brighton races were run. Writing to Mr. Gosford on the 7th, he says he has for a long time given up all hopes of pleasing his family, for if he pleases one he is sure to displease the other, and this, he adds, was one of the causes which made him act for himself.

A Juror.—Have we the date of his first illness which was spoken of by Colonel Jones?

The LORD CHIEF JUSTICE.—No; the date is not sufficiently defined to enable us to speak with any certainty about it, but I shall come to that subject by and by. There is a passage in the letter about the election to which I ought to direct your attention. It has been suggested by the learned counsel for the defendant that if you should be of opinion that what has been called the Brighton card case could not have occurred at Brighton races in 1852 it might have happened at the Goodwood Races. Now, that letter of the 28th of July contains a passage which appears to me to show to demonstration that Roger did not go to Goodwood Races. Writing from the barracks at Canterbury he says: 'Several of us are gone to the races. They have obtained a few days' leave for that purpose.' In speaking thus he could not have included himself in the number of those who had gone. On the 7th of August he sends a letter to Mr. Gosford, and on the same day he writes to his mother. If he had lost money at Brighton on the 4th, 5th, or 6th, and had not the means to satisfy the debt he had incurred, and it was necessary to have recourse to his mother for means, he could only have done so by writing to her at Paris. Now, there is no such letter. On the 7th, when, if he had lost, he must have known of his liability, the mother was contemplating a visit to England, and if he had been in a predicament from which he could not escape without her aid, you would naturally suppose he would have written to her about it. Yet this is what he writes to his mother:

'Canterbury, August 7, 1852.

'My dear Mother,—I strongly advise you to give up all ideas of coming over to England.

. . . If such was your wish, you should have thought of it sooner and have come with my father. . . . It would be quite impossible for me, if you came to Canterbury, to look after you.—Your affectionate son,
R. C. TICHBORNE.'

On the 8th he writes as follows to Lady Doughty:

'Canterbury, August 8, 1852.

'My dear Aunt,—I have not been about much lately. I have nearly explored all the places in the neighbourhood. There are still one or two places I am anxious to visit, among others Maidstone; if I can possibly obtain a day's leave I think I shall be able to go there some time during this week.—Your affectionate nephew,

R. C. TICHBORNE.'

And then he writes to Mr. Gosford:

'Canterbury, August 10, 1852.

'My dear Sir,— . . . I have not heard from Lady Doughty for a long time. I fancy she must be back at Tichborne. I fancy she has asked you if you have heard from me. I wrote to her yesterday. I don't know what I shall do this

winter—if I shall apply for leave or not. If I do, I think that I shall go and settle somewhere where I can have good hunting.—Yours,

‘R. C. TICHBORNE.’

On the 17th August he writes from Canterbury that he supposes they are getting on well at Tichborne; and that he intends getting a short leave, which he proposes to spend in London. His aunt, in writing to him, assures him that never a day passes without their thinking of him, and she also informs him of his uncle's serious illness from spasms. He replies to her in these terms:

‘Canterbury, August 23, 1852.

‘My dear Aunt,—I was sorry to learn, by your last, such a bad account of my uncle. I sincerely hope he will get over it. I should feel much obliged if you had the kindness to let me know daily how he feels. Pray give my love to my uncle. —Dear Aunt, your affectionate nephew,

‘R. C. TICHBORNE.’

In reply, Lady Doughty writes a letter which contains a very important passage, because it is impossible his uncle could have sent such a message to Roger if the latter had been guilty of dishonourable conduct towards them or their daughter. She says:

‘Tichborne-park.

‘My dearest Roger,—Thanks for your kind inquiries, at which your dear uncle is much gratified. He spoke of you again to me with the greatest affection, when he thought himself dying; he said, “Give my love and blessing to dear Roger, and my hope that the time is not far distant when he sells out and settles down, and truly glad should I have been to have seen him make a happy marriage.” I give you these words as he said them to me. . . . Your father and uncle Alfred leave next Monday. Your uncle and cousin send their love. —Ever, dearest Roger, your affectionate Aunt,

K. D.’

It is not likely that people would speak in that way of a man who had succeeded in overcoming the honour of their daughter. On the 30th of August he writes a letter to his aunt giving a detailed account of the gaieties that had been going on throughout the whole of the past autumn, and the description he gives conveys the idea that he had taken part in them. The letter runs thus:

‘Canterbury, August 30.

‘My dear Aunt,—I was happy to hear such a good account from my uncle by your last letter. . . . These two last weeks have been very gay at Canterbury. The first week was the cricket week—the great matches of Kent against All England were played. There were some picnics given at the same time. Several officers went to these parties, but I did not go. I have now given up altogether going to these parties of pleasure. But I could not escape going to the ball which was given at the latter end of the week. Last week was the racing week; Thursday and Friday were the two days. I went to both; the racing was very good. They had, of course, a race ball. —Your affectionate nephew, R. C. TICHBORNE.’

That brings us to the end of August, and looking to the correspondence, the question presents itself whether you entertain any doubt that throughout the month of August Roger Tichborne was stationary at his quarters in Canterbury. On going through the letters one by one, we find no reason to believe that he ever obtained leave of absence, and it is impossible to suppose that he went to Tichborne during the time. If we follow him through the month of September we shall

find the same thing. Sir Edward Doughty having improved in health, Lady Doughty went to Ryde at the beginning of September, and there is no reason to believe that while she was there Roger went to Tichborne. She writes to him as follows:

‘Ryde, Isle of Wight, Sept. 10, 1852.

‘My dearest Roger,—We came here on the 1st of September, and have been ever since with my sister. My Katty came on Wednesday, and we return to Tichborne together. . . . Your father was very low when he quitted Tichborne, but nothing unpleasant ever passed between us and your father; he never even alluded to any conversation with you, and we all parted the same friends we had met. He never named you in any way to us. Write soon to me at Tichborne. I have had a kind letter from your father. With your cousin's kind regards, ever dear Roger, your attached and affectionate Aunt, K. DOUGHTY.’

On the 18th of September, Roger Tichborne writes as follows to Mr. Gosford:

‘Canterbury, Sept. 18, 1852.

‘My dear Sir,—I went up to London on the 15th to see my father. We had a long conversation together, in which he strongly expressed his wish that I should leave the army. . . . I told him I should most likely take during the winter a sporting tour, and not to go to Tichborne. He entreated of me to go and spend some time with my uncle at Tichborne. Now, it is not my intention to go to Tichborne (unless my uncle and aunt express a very strong wish that I should go and spend some time with them during the winter)—to go to Tichborne at all this winter. I have my reasons for doing so, which I doubt not you know. . . . I told him about my not wishing to go to Tichborne this winter. It may, perhaps, bring things to a sort of crisis, but what crisis it will be I cannot say. I suppose that everything at Tichborne is much as usual. How is my uncle?—Believe me, yours truly,

‘R. C. TICHBORNE.’

On the 25th he wrote to Mr. Gosford to say he had made up his mind to leave the army if no order for foreign service came. He also states that he should like to have a hunting-box in Hampshire, with stables for four horses. On the 30th of the month he wrote another letter to his aunt, which shows he was still at Canterbury. The proposal to take a hunting-box in the neighbourhood of Tichborne created the greatest commotion in the mind of Lady Doughty, whose great object was to keep him away from her daughter. Mr. Kenealy says this was because she had a knowledge of some dishonourable conduct on his part, and was apprehensive of something. You will judge for yourselves whether this was the case. In her letter she says the world had given out that he and his cousin were engaged, and she pointed out that this belief would be confirmed if he went to reside in the neighbourhood of Tichborne. During the month of October Roger was never near Tichborne, but was still at Canterbury. Writing to his aunt on the 10th of October he says:

‘My dear Aunt,—I beg to say that, if I settle in Hampshire, it is not my intention to be within reach of Tichborne, as, if I take a hunting-box for the season, I shall so manage that it may be at least 15 or 20 miles from the house at least, if not more. The idea of leaving the army never would have come into my mind if there had been the least chance of the Regiment going to India. . . . If I had been able to make an exchange into

a regiment in India or the Cape I should have gone, and not thought of leaving the service. . . . I intend remaining, and hunt in England during the season, and to go in spring to travel in South America and Mexico, which are two countries which I wish to see. I intend going all over that part of the world and finish my travels by Europe. I should be sorry if you thought for a moment that if I settled in Hampshire I should be in your way. I should so contrive that you would not see or hear of me. . . . Pray give my love to my uncle and to my cousin.—Believe me your very affectionate nephew,

‘R. C. TICHBORNE.’

On the 25th of October he wrote to Mr. Gosford from Canterbury that he was soon to start for Upton. It was arranged that he should go there. On the 28th of October Lady Doughty wrote to Roger:

‘The deed being done, it is useless to refer more than necessary to the arguments which I put as forcibly as I could when first you allowed your intentions to be made known to us, because certainly you have thrown us all into difficulties without real necessity for doing so, for by your wish to settle in this country, and our objecting to it unless we could have made you as welcome here as formerly—and therefore we offered Upton—our duty compelled us not to throw you constantly together when we disapproved any attachment beyond that cousinly affection which we hoped might ever continue. I must remind you of what I told you, that, having had a subsequent conversation with my child, and finding that her mind was far from being made up, but that she was much agitated and earnestly wishing for a longer time to consider whether she really did give you that decided preference to all those she had ever seen, that with a safe conscience she could give a decided consent to your asking your father’s consent, and it is painful to us not to see you; but our duty must supersede inclination, and we could not be justified, after what has so recently passed, to run the risk of any renewal; but the trial is augmented by the step you have taken. We earnestly hope you may be comfortable at Upton, and I always cherish a hope that the day may come when you are a settled and happy man.’

At the end of October he writes to Mr. Vincent Gosford, informing him that he had accepted the invitation to go to Upton, and his letter throws considerable light on parts of the case which might otherwise appear mysterious. Writing

from Canterbury on the 5th of October 1852, he says:

‘I should feel obliged if you had the kindness to bring down with you at the same time all my things, such as my four brass instruments with the mouthpieces and crooks, my two guns and two rifles, two pair of jack boots, brushes (I have two pairs left at Tichborne), two red coats, two pairs of shooting shoes, and perhaps some light ones, which I have forgotten there; shooting jackets, coats of every description, as also trousers of every colour, as also my books and music books, my six or eight hats and caps of all shapes and colours, as also my backgammon board, my haversack, pipes, tubes, if there are any, hunting cap, whips with the lashes, hunting spurs (I had two pairs left in my sitting room), scarfs; in fact everything which you may find in the house that belongs to me.’

It will afterwards be important to consider what became of all these things, for there is no proof of their having been disposed of or sent away from Upton, and of course Roger Tichborne would not take them with him to South America. On the 28th of October he went to Upton.

The correspondence to which I called your attention will enable you to judge whether, between the 22d of June and the 28th of October, Roger Tichborne ever set his foot in the Tichborne mansion or in the surrounding neighbourhood. It is for you to solve that question. I cannot help thinking, on looking through the correspondence, that Lady Doughty was dealing ungenerously with the young man. It would have been much better for her to have said at once that there must be no further hope of a future union between him and his cousin. Instead of doing that she endeavoured to get him to plight his troth to her daughter, while her desire was that her daughter should see some one whom she would like better, in which case poor Roger was to be thrown overboard and left to bear his disappointment and sorrow in the best way he could. Roger saw through her drift. From that time he declares positively and expressly that he will not go back to Tichborne, except on the express invitation of Sir Edward and Lady Doughty, and, as far as I can see, he never departed from his resolution. His proposal even to come into the county was met by strong remonstrances on the part of Lady Doughty. Then comes the compromise under which he accepts the loan of Upton, where we shall trace his proceedings to-morrow.

FOURTH DAY, Tuesday, February 3, 1874.

Gentlemen of the Jury,—We left Roger Tichborne yesterday afternoon settled at Upton, which his uncle and aunt—Sir Edward and Lady Doughty—had placed at his disposal, while he required it as a residence, instead of his taking a shooting-box in Haunts. This brings us to the end of October, and now the facts and date of the correspondence, especially in the ensuing months of November and December—at all events the first half of December—will be of great importance when we come to another part of the case—I allude to what has been called the sealed packet. When we come to that case, every date and every letter it will be essentially necessary you should be thoroughly conversant with; and, as I desire that then all these things should be perfectly fresh in your me-

mory, I think it better to pass them over for the present. There are only one or two things connected with it which I think you ought now to be reminded of. It appears that between the time Roger went to Upton and his final departure from England he visited Paris, with a view to see his father and mother, three times. That fact will be important when you come to consider what were his relations to his family when he went abroad. It appears from the correspondence that he left Upton on the 5th of November for Paris, returning on the 13th. Again, on the 17th of December, he went from Upton to Paris, returning, not to Upton, but to Canterbury, on the 31st, where he joined his regiment and sent in his papers with a view to sell out. Again, on 1

26th of January, he is in Paris, from whence he returned—as we know from a letter of his to Mr. Gosford—after a stay of 19 days. It therefore follows that the defendant could not have been right when he stated that his last visit to Paris only extended to a day or two.

It was, you remember, during that last visit to Paris that those things occurred of which the witnesses spoke—the breakfast, or *déjeuner*, at M. Chatillon's, when he and Madame Chatillon saw the tattoo marks; his walking out with Chatillon, when the silver chain was purchased which his father subsequently paid for; his meeting with Gossein, and subsequent call upon him; the poulticing of his throat by Burdon, who had succeeded Gossein as his father's valet; the dinner at his father's, at which were assembled the Abbé Salis, M. Daranza, and M. Chatillon. There is one other matter of importance for your consideration, because it was one of the tests applied by Mr. Gosford to the memory of the defendant to see if he recollected what took place with the poachers on Branksea Island, as to which Roger wrote letters to Gosford and to Lady Doughty; and I shall have to advert to that matter further on. The only letter to which I wish to call attention up to this period is one from Lady Doughty, addressed to Roger at Canterbury on the first day of 1853, when he had returned from Paris. She wrote to say that she had heard of his return to England, and that, as his brother Alfred was there, his uncle would be glad to see Roger at Tichborne from Tuesday to Friday, but not to let his uncle believe that it was a final leave-taking. She stated that she and her daughter would be at Wardour, as, however much she wished to see him, it was better that they should not meet.

Now, I must say I think it was one of the darkest traits—and there are many—in Roger Tichborne's character that he did not respond as he ought to have done to that invitation. He thought he had reason to complain of his uncle's proceedings towards him. But his uncle had been a second father to him, and he was evidently dying. Roger knew very well, as his letters abundantly show, that he never would see his uncle more. In leaving England he was leaving a man behind him who had always been kind and affectionate to him, and yet, so strong is his feeling of resentment against his uncle, and against Lady Doughty more especially, because in asking him to Tichborne to see his dying uncle she said that she and her daughter would be out of the way, that he refused to go. He writes to Mr. Gosford:

‘Private.

‘*Cavalry Barracks, Canterbury, Jan. 5, 1853.*

‘My dear Sir,—Many thanks for your last letter, which I had the pleasure of receiving half an hour ago. I received a letter from Lady Doughty last Monday, asking me to go to Tichborne on the 4th, and requesting me besides to have the kindness to leave on Friday morning, the 7th. It is not certainly my intention to go to Tichborne, and if her ladyship still thinks that she can make a fool of me as in former days, she is, I must say, greatly mistaken. It would have been quite impossible for me to have gone down there at present, but even so, if I had been at liberty, I certainly would not have gone. All my arrangements about selling out are getting on very fairly at present. I hope that it will be all over in the course of a few days. I shall be obliged to go back to Upton for a day or two before, so that you may meet me at the Winchester station and go down to Upton with me. I am greatly in hopes

of being able to go to Paris either on Sunday or Monday morning. I shall remain there till about a week before my embarkation for the Conception or Valparaíso. If you write to me in Paris, direct to my father's house.—Believe me yours truly,

‘R. C. TICHBORNE.’

I must say that it was to his disadvantage certainly that a feeling of gratitude did not prevail for all the attention and kindnesses he had received.

Now, gentlemen, I don't know that in the correspondence up to the time of his leaving England there is anything to which it is necessary for me to call your attention. The time had arrived for his departure. He had taken his passage on board the French ship *La Pauline*, and it is not unworthy of observation, as showing his business habits, that he mentions in his letter to Mr. Gosford as his reason for going in a French ship that he could thereby go cheaper than he could in an English ship. The ship sailed from Havre on the 1st of March, and met with contrary winds and stormy weather, and, after knocking about the Channel for some while, she put back into Cherbourg roads. She started again on the 3d, but was again met by contrary winds, and on the 8th of March was still in the Channel, where she remained windbound for four days, finally running into Falmouth. In the mean while Roger writes home to inform them there what had become of him:

‘*Falmouth, Feb. 9 (mistake for March), 1853.*

‘My dear Aunt,—We have been obliged to get in the harbour on account of contrary winds, which we have had nearly since we left Havre yesterday week. . . . It would be difficult for me to give you a description of the life which we lead on board the ship. We are only three passengers—myself, Moore, and another passenger, who is generally sick. The ship is a very fine and comfortable ship. The cabin is large and comfortable. As there is not much to be done on board I have taken to read and study Spanish, which will be very useful to me on my travels. I am happy to say that I am remarkably well and in good spirits, which I hope I shall keep on to the end of the voyage. I sincerely hope that my uncle feels himself better. Pray give him my love, as also to my cousin. As I don't think it likely that I shall be able to write to you again till I arrive at Valparaíso, unless some opportunity should occur by which I might send letters to England.—Believe me, my dear aunt, your affectionate nephew,

‘R. C. TICHBORNE.

‘P.S. I am greatly in hopes to have the pleasure of finding a letter from you at the Post-office, Valparaíso.’

They expected to sail from Falmouth in the evening of the day he wrote, but they did not sail until the 12th of March. The stay at Falmouth, therefore, was four days. It is necessary to mention that, because it was one of the tests of the defendant as to whether they had put in at any port. But of that hereafter. The ship arrived at Valparaíso on the 19th of June.

We now come to a very critical and interesting part of this case, and I must ask your very careful attention to the facts and dates that relate to it. We are now going to enter upon the ground trodden by Arthur Orton, in whom a third person is introduced upon the scene, the defendant standing, as it were, between Roger Tichborne on the one hand, and Arthur Orton on the other. The question is whether the defendant is the one or the other, or, as of course is always possible, a third person. The letters to which I shall have

to call your attention have been printed from a copy made with most remarkable inaccuracy, there being scarcely a line in which there has not been some mistake as to the spelling of the original committed. The original letters are, however, more or less illegible, more especially where he has written rapidly, and then he has the abominable habit of crossing his letters, in which some people will indulge. The consequence is that it is very difficult to make them out. I took the course, which I think was a wise one, of asking our excellent and indefatigable officer, Mr. Davis, to be so good as to go through the letters, comparing them with the originals, and marking with red ink all the various inaccuracies, so that we might have a perfect transcript of the letters of Roger Tichborne before us. Therefore what I read to you you may perfectly rely upon.

In the first place, it appears that Roger, on landing at Valparaiso on the 19th of June, found no letters there from England. He had expected some, as we know, and did not move from Valparaiso until he got intelligence from England. He did not receive that intelligence until June 29, and then he heard, by a letter from Lady Doughty, of the death of Sir Edward Doughty, which happened while he was beating about the Channel on the 5th of March, 1853. In reply he wrote from Valparaiso on the 29th of June to his aunt. He said:

‘Valparaiso, June 29, 1853.

‘My dear Aunt,—I feel very deeply indeed the sad news which I learned only a few moments ago by your last letter. I feel it much more, as I felt almost certain that my uncle would have recovered from the severe attack of illness which he had when I left England. I have always been, though perhaps I never showed it much, sincerely attached to my uncle. He has always been on all occasions very kind to me. I was certainly not able to show it as much as I could have wished, but I felt, nevertheless, as deeply for him as I could. I never saw my uncle’s death in any newspapers at Falmouth. I looked as soon as I came here over all the old English newspapers, but I could see nothing. As I learned by your letter that you were going abroad, it is not likely that any of my family will see or hear of this letter, and of the private remarks which I may make on it. I am not, as you are perhaps aware, on very good terms with the whole of my family. All the causes of that disunion I know perfectly well. It is, I believe, better for you not to know it at present, at least by me. All those different reasons which I had fully time to take to their full value, when I was last in London and in Paris, make me thank Heaven that I was out of the way at my uncle’s last moments, though it may have appeared strange to many persons. It would have been quite impossible for me to have been able to keep my temper in the middle of all the different parties which exist in the different branches of the family. It would have been, moreover, impossible for me to have put up with my father and mother’s character.

‘We sailed from Falmouth on the 12th of March at 9 o’clock at night. . . . Towards the latter part of the month we came in sight of the Pico de Teneriffe (*sic*), which I saw quite plain though at a distance of more than 90 miles. On the 2d of April I saw for the first time the flying fish, and as several had fallen on deck during the night, we had them for breakfast the next morning. I never tasted such a good fish before. We passed the Line on the 10th of April, at 10 o’clock at night.

We had about a fortnight or three weeks of very calm weather near the Line. The heat during these calms was intense. The hottest days I ever felt was during the first week in April; the thermometer went up to 130 degrees in the sun at 12 o’clock. The wind kept much more favourable when we had crossed the Line. When we were near the Straits of Magellan, when I was taking my usual walk on deck after breakfast, I saw quite on a sudden at least 15 or 20 whales quite near the ship, sending water in the air as so many *jets d’eau*. We came near Cape Horn toward the middle of May, and, as the coast is dangerous, captains always keep as far from it as they possibly can, so that we went as low as the 62d degree south. The cold there was intense; any water falling on deck has frozen up directly. But what was the worst of all were the long nights: We had only six hours of daylight and 18 hours of night. We remained there 15 days before we could get round Cape Horn. When we came into the Pacific Ocean the weather came gradually milder and days longer. I arrived at Valparaiso on the 19th of June at 12 o’clock. I was not able to go on shore that day, it being Sunday.

‘I spent my time very agreeably during the passage; the captain and his two officers were very nice sort of persons. I used to spend my time in reading, and as there were always a great many sea-birds following the ship I used to amuse myself in catching them with a fishing-line or shooting them with my gun. There was only one passenger on board with me, who has been more or less seasick during the whole time. I am happy to say that I never had a single moment of any kind of illness ever since I left. If you answer my letter by return of post, you had better direct it here. As we are now in the country at the beginning of winter (though it is as warm as in England in summer), I intend sailing on in the same ship in which I came from Arica, Coquimbo, and Lima to visit the north of Chili and the south of Peru during the winter, to see all the copper and silver mines which are in that neighbourhood. If you are not able to answer this letter by return of post, you must direct your letter to Buenos Ayres or Montevideo, where I shall go towards spring, when I have visited the south of Chili, which I intend doing in spring. I have not time to give you a description of Valparaiso in this letter, as I have so many letters to write to-day. Pray give my kindest love to my cousin, and tell her that though far away I feel deeply how this moment must be painful to her, and moreover that if ever I can be of service to her to make use of me by letting me know what I can do for her, as it will always be a pleasure for me to oblige her in every possible way I can.—Believe me, my dear aunt, your very affectionate nephew,

‘R. C. TICHBORNE.’

Now with that letter he enclosed, as was his habit, a letter which he marked ‘private and confidential.’ It runs thus:

‘(Private and Confidential.)

‘June 29, 1853.

‘My dear Aunt,—I should not have written this private note if circumstances had not forced us to some kind of explanation, and it was not my intention to remain a long time out and far away from England. The letter to which you allude at the end of yours has certainly produced a deep impression on my mind, because a person, who has given his word of honour as a gentleman that he was doing his best to correct certain faults which he had acknowledged, cannot but feel deeply what

he is told in plain terms that his word is worth nothing, and that he is, in fact, a *liar*.

'There is always a way of refusing a persons (*sic*) without making such strong allusions. But, however, it is now passed. I have not the slightest rancour against you for those words, which you have said, I hope, without thinking about it; but at the same time it is very difficult to forget it altogether. It is not likely, as I have told you many times before, that I shall go to Tichborne to make any long stay, and, moreover, it is not my intention to go back to England for *some years to come*. I have thought that I might write this note, hoping at the same time that what I have said won't offend you. Though I fully expect to be far from England for such a length of time, if there is anything which I can do for you and my cousin, it will always be a pleasure to oblige you both to the utmost of my power. You may rest assured, my dear aunt, that what has passed between me and my cousin (though I feel as much attached to her as ever I was) has never been told by me to anybody, and, moreover, never will be spoken by me to any living soul, and that I shall always be happy to do anything in the world for her.

'I little thought a short time ago that I would write a private letter again.

'I intend, as you know, visiting all South America and Mexico, which will take me about 18 months. I intend afterwards embarking for India. But those are plans too far distant to be of any interest to you at present.—Believe me, my dear aunt, yours truly, R. C. TICHBORNE.

'P.S.—This letter must be burnt when read.'

It was his intention then to travel for 18 months in South America, and then to proceed to India. He writes on the same day to his father, and these letters show that the defendant was altogether wrong when he said that it was on arriving at Valparaiso he found the letters from his father and mother. He got no letter until he received Lady Doughty's. The letter to his father is to this effect:

'Valparaiso, June 29, 1853.

'My dear Father,—I am perfectly at a loss to find out why I have not received any letter from you since my arrival here. I learned the sad news of my poor uncle's death this morning by a letter which I received from Lady Doughty. I felt it so much more as I never expected to receive such painful intelligence. I sailed from Falmouth on the 12th of March, at night, by a strong wind and a heavy sea, which was fortunately all in our favour. We were in sight of the Re de Tenerif towards the latter part of the month. We saw it quite plain, though at a distance of more than 90 miles. On the 2d of April I saw, for the first time, the flying fish. As many had fallen on deck during the night, we had them for breakfast the next morning. I am sure that I never tasted such a good fish before. We passed the Line on the 10th of April, at 10 o'clock at night. We had near the Line about a fortnight or three weeks of calm weather. The heat during those calms was intense. The hottest day I ever felt was at the beginning of April; the thermometer went up as high as 130 degrees (English measure) in the sun at 12 o'clock. When we were near the Straits of Magellan, as I was taking my usual walk on deck after breakfast, I saw quite on a sudden at least 15 or 20 whales quite near the ship, sending water into the air as so many *jets d'eau*. We came near Cape Horn near the middle of May. As the coast is dangerous, captains always keep as far from it as they possibly can, so that we went as low as the 62d

degree south. The cold there was intense; any water falling on the deck was frozen up directly. But what was the worst of all were the long nights; we had six hours of daylight and 18 hours of night. We remained 15 days about there before we could get round Cape Horn. But as soon as we came into the Pacific days became to be longer, and the weather gradually milder. I arrived at Valparaiso on the 19th of June, at 12 o'clock. I was not able to go on shore on that day, as it was Sunday, but I went the next day.

'The captain and his two officers were very nice sort of persons. I used to spend my time in reading, or, as there were always a great many sea birds following the ship, I used to catch them with a fishing line or kill them with my gun. I have been, I am happy to say, perfectly well ever since I left; I had not a single moment of any kind of illness during the whole of my passage. It was not the same case with the other passengers, who have been more or less sea-sick during the whole time. If you answer this letter by return of post, you had better direct it here, because, as we are at the beginning of winter, though it is as warm as in England in summer, I am going to sail in the same ship in which I came at the beginning of July for Arica, Coquimbo, and Lima, to go and see the copper and silver mines, which would be seen in the north of Chili and the south of Peru. I shall go and visit those places in winter, and at the beginning of spring I shall work my way to the South. If you are not able to answer this letter by return of post, you must direct your letter either to Buenos Ayres or Montevideo, where I shall go when I leave Chili.

'Valparaiso is a town quite different from any town which I have ever seen in Europe. All the houses are built low and are of wood. Valparaiso is without exception the dearest town in Chili; everything almost is sold for its weight in gold. I wanted, for instance, some visiting cards some time ago. I had to pay 20 francs for 100 of them. Everything is more or less in the same proportion. I took up my lodgings in a French hotel, where I am very fairly. Almost all the hotels there are kept by French or Englishmen. I hope that my mother is quite well. Pray give her my love, as also to Alfred, who I suppose is with you at present, and believe me, my dear Father, your very affectionate and dutiful son,

'R. C. TICHBORNE.'

Then he writes to Mr. Gosford as follows:

'Valparaiso, June 29, 1853.

'My dear Sir,—I am perfectly at a loss to find out why you have not written to inform me of my poor uncle's death. . . . I supposed that by this time my father and mother must be settled at Tichborne. The only letter which I have received this morning was from Lady Doughty, who gave me the sad intelligence. I am very much surprised at not having received any letters from my father since my arrival here. I cannot make out why he don't write to me. I left Falmouth on the 12th of March. . . . We crossed the line on the 10th of April; we had near the line a fortnight or three weeks of calm weather, the heat during those calms was extreme, the hottest day I ever felt was at the beginning of April. The thermometer was up as high as 130 degrees in the sun at 12 o'clock. We came near Cape Horn towards the middle of May. . . . We remained there 15 days before we could get round the Cape. But when we came into the Pacific Ocean, day began to be longer and the weather gradually milder. I arrived at Val-

paraiso on the 19th June. . . . I spend my time very pleasantly during the passage. I use to read much, and as they were always a great many sea birds following the ship, I used to catch them with a fishing line, or kill them with my gun. I have not had a single moment of any kind of illness ever since I left. It was not the case with the other passengers, who had been more or less sea-sick during the whole time. I intend going on in the same ship at the beginning of July to Arica, Coquimbo, and Lima, to see the copper and silver mines. I intend to visit the north of Chili and the south of Peru during the winter, and work my way to the south at the beginning of Spring. If you are not able to answer this letter by return of post, you must direct it to Buenos Ayres or Montevideo, where I shall go, leaving Chili.

'Believe me, yours truly,

'R. C. TIEBHORNE.'

Well, he has determined to go to the north of Chili, and to sail by La Pauline for the port of Arica, but the vessel did not start so soon as he expected, and he took advantage of the delay to make a visit to Santiago, the capital of Chili; and it appears from a letter to his mother, which I am about to read to you, that he left Valparaiso for Santiago on the 30th of June, the day after writing these letters, and arrived there on the 2d of July. He stayed there until the 6th, and then set out on his return to Valparaiso. He sailed thence on the 27th July for Arica. Now, it would take two days to get from Santiago to Valparaiso. Between the 6th and the 27th there would be 19 days. If you take off two days for the journey, that would leave 17 days before his departure. There will be a question presently whether he availed himself of those 17 for the purpose of going to a place which becomes of paramount importance in this case, called Melipilla. At present I pass that by, but shall have to return to it, as it is of vital importance in the case. There is a letter written from Lima to his mother, giving an account of his journey to Santiago and back, and of his further progress to the north. On a passage in that letter, or on a simple word in that letter, may hang the solution of this case. Let us follow him in his onward course. He goes by La Pauline to Arica, and then to Lima, where he stayed some time. He goes on to Callao and up the River Guaquilla with his servant and two Indians. He remains some time in the neighbourhood, shooting the birds of varied plumage with which a tropical climate abounds, and then he goes back to Lima. He takes the steamer, which brings him back to Valparaiso some short time before December 20, because he writes on that day and says he is about to go from Valparaiso to Santiago for the purpose of taking his departure across the Pampas to Buenos Ayres and Montevideo. Two roads were open to him. The hill route was a shorter, but there would be great hills to get over. The longer route, which was the lower one, goes by Melipilla. He went from Santiago to Valparaiso. At length he started from Santiago across the Andes. Whether he stopped at Melipilla on either of those occasions is one of the leading questions you will have to consider. If you should be satisfied, after hearing these letters read, that he did go to Melipilla, it will be to the advantage of the defendant. If you are satisfied that Roger Tiebhorne did not go to Melipilla, the defendant's cause falls to the ground, for most undoubtedly the defendant has been at Melipilla. He not only

put that forward, but he says that it was his intimacy there with Don Thomas Castro which induced him to assume the name of Thomas Castro while he was in Australia. That Arthur Orton was at Melipilla you will not entertain the shadow of a doubt. The defendant was at Melipilla—Arthur Orton was at Melipilla. It would not be a logical deduction to say that if Roger Tiebhorne was not there, and if the defendant was there and Arthur Orton was there, the defendant must be Arthur Orton, although no doubt it is a step in that direction. It is, however, a perfectly logical deduction to say that if Roger Tiebhorne was never at Melipilla, the defendant, who was there admittedly, cannot be Roger Tiebhorne. Therefore, it is of the utmost importance to establish whether Roger Tiebhorne was ever at Melipilla or not.

A Juror.—The length of the interval is of great importance.

The LORD CHIEF JUSTICE.—Doubtless it is.

The Foreman.—And it is seventeen days at the outside.

The LORD CHIEF JUSTICE.—That is, beyond doubt, a very important point for your consideration. Now was Roger Tiebhorne at Melipilla? Here is the letter to which I have referred, and which he wrote to his mother. It is dated Lima, August 25, 1862:

'My dear Mother,—Many thanks for your letter, dated 23d May, which was brought to me on board the ship. I hope you will excuse this letter, as it is nothing more than extract from my daily journal. The day after I had written to my father I started on an excursion to Santiago, which is the capital of Chili. I was obliged to make my journey in one of those wonderful carriages which go from Valparaiso to Santiago, which are nothing more than our old cabriolettes, with three horses and two postillions. As there are no posthouses on the road, when they want to change horses they use the lasso, and then put—to the carriage, leaving the others to follow. The distance between Valparaiso and Santiago is seventy-five miles; as it is the custom, I stopped and slept halfway. All the roads between the two towns are remarkably hilly. The country is not very fertile for want of culture. The only trees which I saw all the way were large palm-trees, which were certainly beautiful; but the scenery became finer and finer as I came nearer to Santiago. I saw from the top of those very high hills, over which I was obliged to go, the immense range of the Andes, and of the Cordilleras. I arrived at Santiago on the 2d of July, at 6 o'clock in the evening. The churches in this part of the world are all built in the Spanish fashion. In the middle of the night my servant, John Moore, was taken very seriously ill. The landlord and half the waiters in the hotel began to go all about the town to try and find a doctor, but could not find one. I went in the morning and found one, and explained that it was the third attack of the same kind that he had had. When I had settled all about Moore I went to make my arrangements to go to Valparaiso—to start the next morning—as I was anxious to be in time for La Pauline. When I arrived there I found that she would not sail as soon as I had thought at first. I sailed from Valparaiso for Arica on the 27th of July, and arrived at Arica on the 11th of August. I went on shore the next day.'

It is of importance to remark that Roger says he kept a diary or journal, and that the letter was an extract from this daily journal. Well in the

letter there is no mention of Melipilla. Now, even if the place were uninteresting, if a man received great and unexpected hospitality, the place would acquire an interest of its own for him, and would he not be likely to make some mention of it, and of the kind treatment he received, in his journal? Again, he mentions the lofty hills he had to cross, and therefore he could not have gone to Santiago by the lower road which led through Melipilla. The letter then goes on:

'I left Arica on the 20th on board one of the Pacific steamers for Callao and Lima, where I arrived on the 23d. I found when I was at Valparaiso a Frenchman who had eighteen years' certificate, as good ones as I wish to find anywhere, and the very high character which received for him from everybody make me take him, as I wanted a valet to come with me. My health has been remarkably good ever since I left Europe. I am going to start in a few days for Quito, from which place I shall write to you or my father a short letter. I shall not remain there above a few days, but shall come down again to Valparaiso or Santiago, to go to Buenos Ayres and Montevideo by land. So when you answer this letter pray to direct it to either of those two places, where I shall find any letters, as I shall be there in six weeks or two months, or perhaps later. I cannot exactly say the time of my arrival in those towns. When I shall be there I will let you know where you are to direct the other letters. Don't direct any letters to me at Valparaiso or Santiago, because I would not receive them. I have no doubt you will like Tichborne very much.

'Pray give my love to father and Alfred, and I remain, my dear mother, your very affectionate and dutiful son,
R. C. TICHBORNE.'

You will remember that he left Moore behind, and that the defendant has told us that having left Moore behind, the captain of the Pauline allowed him to take one of the people of the Pauline—the second mate, I think—as his servant. Is that statement consistent with what Roger writes to his mother at the time? He says that at Valparaiso he engaged as valet a Frenchman who had eighteen years' certificate. Does that apply to a servant with eighteen years' character, or does it refer to a man who was one of the crew of the Pauline? If you think that the term 'Frenchman with eighteen years' character' meant a servant, it is inconsistent with the statement the defendant has made. The death of Roger's uncle, of course, made a difference in his position, and in reference to that change he writes to Mr. Gosford and Mr. Slaughter. To the latter he says:

Lima, Sept. 11, 1853.

'My dear Sir,—In consequence of my poor uncle's death, many changes must have taken place in the family affairs, in which you and Mr. Gosford must have been obliged to come forward to use the power of trustees which I have given you both before leaving England. Knowing how important it would have been for me to have as soon as possible the different alterations which had been made of late in the family settlements, I am perfectly at lost to find out why I have not received any letters from either you or Mr. Gosford since my arrival in America. As my income has increased since my uncle's death, I should feel much obliged if, on receipt of this letter, you had the kindness to go to Messrs. Glynn and Co.'s office to inquire if it is necessary, in consequence of the increase of my income, to change the letter of credit which I received from him the day before I left London, which is of 2000*l.* for three years, for one of 3000*l.*

for the same period of time, which will be nothing more than the full amount of my income. I should also feel obliged if, at the same time, you had the kindness to mention to Messrs. Glynn and Co. that he would send at the same time a letter by which I might draw some money, if I am in want of it, at Rio de Janeiro and Bahia, which are two towns through which I shall pass on my way from Montevideo to Mexico. I have enclosed for that purpose a number of my signatures, which he may require to send in those different towns. I should feel greatly obliged if you will have the kindness to answer this letter, and direct yours either to Buenos Ayres or Montevideo, where I expect to be in about three or four months, if not more. Pray excuse this short note. Pray remember me very kindly to Mrs. Slaughter, and believe me, yours truly,
R. C. TICHBORNE.'

To Mr. Gosford he writes on the same day as follows:

Lima, Sept. 11, 1853.

'My dear Sir,—It is quite impossible for me to account why I have not received any letters from you since my arrival in America. I have written by this post to Mr. Slaughter to try to get some kind of information about the different changes, and to what extent you have been both obliged to use the power of trustees which I have given you before leaving England. I have no doubt that my father has been wishing to make some alterations in some of the different family settlements, which changes would have been very useful for me to have known as soon as possible. I have sent back to England on board the same ship I came two boxes containing some of my linen and clothes which I don't want. I have directed those parcels to you; I should therefore feel much obliged if you will have the kindness to pay what little expenses it may cost from Havre to Southampton. If you answer this letter pray direct yours either to Buenos Ayres or Montevideo, where I expect to be in about three or four months, if not more. Pray remember me very kindly to Mrs. Gosford and believe me yours truly,

'R. C. TICHBORNE.'

Again, on the 25th of November, he writes as follows to Mr. Gosford:

'My dear Sir,—I should feel much obliged if you forward the letters. I have no time to write any details about my travels, as I only arrived here yesterday, and am starting to-morrow for Valparaiso, and from thence to Buenos Ayres and Montevideo. I am in great hopes of finding some letters from England at either of those places. I shall nevertheless call at the P. O. at Valparaiso. Will you give my love to my father and mother, and tell them that I shall write to them from Valparaiso? My direction will be at Rio de Janeiro.—Yours truly,
R. C. TICHBORNE.'

On the 20th of December, a date which is of some importance, he writes to Mr. Gosford on his arrival at Valparaiso as follows:

Dec. 20, 1853.

'My dear Sir,—Are you dead or alive? I have enclosed in this letter a letter for Lady Doughty. I have forwarded from Lima two large boxes, one containing a collection of skins of very fine birds which I have killed, and prepared the skins myself, which I intend to have set up properly on my return to England; the other is a fine collection of old paintings which came from one of the old convents. There besides that a lot of different curiosities which I picked up in Lima and elsewhere. I should be obliged if you would have somebody on the look out when the ship will come

into docks. There is a small skeleton of about seven inches high which is in a glass case. I wish you to take it out and keep it for me. There are besides some beautiful crosses and statues made by the Indians. These pictures must be hung up somewhere till my arrival, which won't be for some time to come. Be so kind as to be very particular about these boxes, because I had so much trouble in getting the birds, which are beautiful, and the paintings and curiosities. I am going to cross the Cordilleras of the Andes in about a fortnight on my way to Buenos Ayres. I shall go from Mendoza right across the Pampas. I shall write to you from there. I shall write to you from Buenos Ayres or Montevideo.—Yours truly,

'R. C. TICHBORNE.'

On the same day he wrote to Lady Doughty, giving her an account of his proceedings:

'Valparaíso, Dec. 20, 1853.

'My dear Aunt,—I hope that you won't be offended at the long delay which has taken place since I have written to you; but then I give for excuse that I have ever since the beginning of last July been rambling all along the coast from here as far up as Guayaquil, and from there I went almost 300 miles in the interior of the country. I stopped at several places on the coast, where I thought there might be something worth seeing. I made a longer stay at Lima than I had thought of doing at first, because there was much more to be seen in the town than I had thought at first. Lima is a very large town, the finest which I have seen on all the coast. The inhabitants of Lima are, as far as appearance goes, remarkably Religious. The town has within its walls 72 churches, without counting all the different convents of men and women of all orders which are in Lima. The riches which do exist in some of the principal churches are something quite wonderful. The cathedral among others, which is a large and fine church, has all the ceiling thickly gilded, and above the altar there are four pillars which measure about 18 ft. high by 3 ft. in circumference, which are made of silver. I shall say nothing more of the other principal churches, which are all decorated in the same way. What I found to be very picturesque was to see every evening all the country people in their national dresses talking or sitting all round the large square on benches which are disposed for them. I went to see the bull fight, at which I was, as you may easily fancy, much interested. It is a kind of rendezvous for all what Lima has of aristocracy and fashionable.

'When I had seen all that I could see in Lima I embarked at Callao on board a sailing vessel to go to Guayaquil. We were about nine days going. The river from the sea up to the town is very large, and the scenery on each bank is magnificent. . . . There is not much to be seen at Guayaquil except that the houses are built rather differently from what they are in other parts of South America. Two days after my arrival in Guayaquil I found a boat to go up the river. I was obliged, though, before I left to take provision with me for a fortnight. We went up as high as the line. The heat about there was something fearful. I had some good sport up the river. I killed some very fine birds, which I used to take to the boat and prepare their skins. I have sent a large box from Guayaquil to England of the most curious birds which I have been able to kill in the tropics. I made several excursions afterwards, but not for such a length of time. I left Guayaquil at last to come down and spend a few days in Lima before I embarked on board the Pacific steamer for Val-

paraíso, where I am now. I shall not remain here for more than a week. I am preparing as fast as I can to cross the Cordilleras of the Andes and go straight across the Pampas to Buenos Ayres, and afterwards Montevideo. You can easily see the road which I shall follow by looking at the map. I shall go from thence to Santiago, from there to St. Philip's, from there across the Cordilleras, and come down at Mendoza; from there across the Pampas to New Cordova; from there to Santa Fé; and from there, at last, to Buenos Ayres. The mountains are crossed on mules' backs, and all the rest of the road is done on horseback. I don't think that I shall remain long in either of these towns, but go on straight to Rio de Janeiro and Bahia, where, if you answer this letter, you will have the kindness to direct yours, as I intend making some stay there before going to Mexico. The only news about J. Moore is that he is at Santiago. Pray write to me, and direct your letter at Bahia.—Dear aunt, your very aff. nephew,

R. C. TICHBORNE.'

Well, gentlemen, we see by a letter which Roger wrote to Mr. Slaughter, and which is dated the 31st of December, that he had reached Valparaíso from Santiago on or before that day. He gives in that letter a description of Lima, and says, 'I there saw tropical vegetation in all its beauty.' And I cannot help here observing that whatever Roger's intellectual or educational deficiencies may have been, he was not without a very high sense of the beauties of nature in its grandest forms, and not too without very considerable powers of describing what he observed, and the satisfaction which beautiful scenery produced in his mind. Writing to Mr. Gosford, he expresses his surprise at the news he had received from him as to his father and mother, and adds:

'I have for many years foreseen what is taking place at Tichborne. It was one of the reasons, although I did not tell you at the time, why I was so very anxious to get away from England before my uncle's death, because, if I were there at the time, I should have been thrown into the midst of the different parties into which the family is divided, and should have been obliged to take part with some against others, or probably to go against all. I am very sorry my mother's character is so disagreeable, because it must make Tichborne a kind of hell for my father and everybody in the house.'

That, gentlemen, is Roger's own description of his mother's temper; and he adds:

'If I were there it would make matters ten times worse. There is, unfortunately, no remedy.'

Now, it is quite clear that, while Roger felt that there was some fault on his father's side, whose hasty temper only made matters worse in these unhappy domestic disputes, still it is also clear that he felt deeply it was his mother who was principally in fault. That his sympathy was with his father rather than with his mother is quite clear from his letters. I do not think there is any instance in which the learned counsel for the defendant has gone more counter to the facts, and in his observations tended to damage his client's case more than by holding up Roger's father to reprobation in consequence of the unhappy relations which subsisted between him and Roger's mother. The learned counsel held the mother up as an example to all women of all that was super-excellent in womanly qualities. He sought, at the same time, to disparage the father, and applied to him the most offensive epithets, calling him a cowardly, degraded, contemptible

slave. That was the language which was used and applied to the alleged father of his own client. And the client sat by and listened with silent assent. Would Roger Tichborne have done so, think you? An incident of that kind occurring in a cause is one not to be altogether lost sight of. What son would listen to opprobrious terms of obloquy being applied to his dead father, whom in his lifetime he loved, although not, perhaps, with the warm and ardent affection with which some sons love their fathers; but, still, whom he loved, with whom he sympathised, whom he pitied, whom he would have assisted if he could in the domestic discords which unhappily prevailed. When the woman who claimed the rights of maternity was willing that the child she said was hers should be cut in twain rather than given over to her who also claimed that right, the wise man said she cannot be the mother. But when a son sits by and allows his father's grave to be spat upon, allows contumely and insult to be heaped upon his father's memory, what can we say? Would not the son have risen indignant at hearing such opprobrious terms applied to his father, and have stifled the slanderous language in the utterance? But it was allowed, as I have said, to go unchecked and unreprieved by the defendant. At the same time he may have been so astonished at hearing this torrent of abuse levelled against his father's memory that he may not have had the presence of mind or the self-possession to remonstrate against that which if he were the son one would have thought would have excited his indignation. It is quite clear that Roger felt it was his mother's temper that made his father's house a hell, and that it was his father who was the sufferer, the aggrieved sufferer, and not the aggressor.

Roger then goes on in his letter to allude to some Italian princess whom his mother was anxious he should make the acquaintance of, and says, 'I would not give sixpence for a whole cargo of them'—adding that he had done a great many foolish things, but would keep clear of marriage. 'Still harping on my daughter,' he comes then to Miss Doughty, and says, 'I do not think the London season will go over this year without Miss Doughty being married. I expect to see the announcement in the papers. I have mentioned to Lady Doughty that it is not my intention to return to England for two or three years.' And it seems that when he went on board the *Bella* it was his intention to complete a course of travel which he had laid out for himself, and to return to England about the time he here mentions. It is noticeable throughout this correspondence that he never omits mentioning Lady Doughty and Miss Doughty. They are always in his mind. Here he asks for news of them. Then there is business. He inquires what changes had been made at Tichborne—what had been sold after the death of Sir Edward. And then there is jollity, for in the P.S. he tells Mr. Gosford he would at Jamaica drink his health in a glass of punch, which would enable him to sing 'Come with me to fairyland,' or 'We won't go home till morning.' But he adds, 'Be assured I would not live in a house like Tichborne for anything in the world.' One of the letters he sent to Mr. Gosford was the following, for Lady Doughty:

Buenos Ayres, Feb. 28, 1884.

'My dear Aunt,—Where are you? In what part of Europe have you fixed yourself? Not knowing where you are, have directed this letter to the care of Mr. Gosford, who will forward it to

you wherever you are. When I was in Santiago last time I had two very fair likenesses taken of me. I sent one to my parents, and one to you, though I doubt that you will know me again. My personal appearance, of which I always took so much care, has been so much improved by the tropical sun, that I think I look more like a red skin Indian than anything else. But, however, it is not worth thinking about. I arrived here on the 13th of this month, coming from Mendoza, where I had remained a week. I left Santiago on the 11th of January to cross the Cordilleras of the Andes, which took me a week to do. If you favour me with a letter, will you have the kindness to direct it to Kingston, Jamaica, West Indies, where I shall be in about three months, to get my letters on my way to Mexico? I shall leave Buenos Ayres, I expect, in a few days for Montevideo. Pray excuse this short letter; I had not time to write more by this post. Pray give my love to my cousin.—Believe me, my dear aunt, your affectionate nephew, R. C. TICHBORNE.

'To the Hon. Lady Doughty.'

The two portraits he there mentions are the daguerreotypes which have played so large a part in this inquiry. He next writes to Mr. Seymour, giving a detailed account of his travels and of his crossing of the Andes. From this letter it is clear he could not have gone to Melipilla on his return journey from Santiago to Valparaiso. He could not have gone there on his way from Santiago to Valparaiso the first time, because he only took sufficient time to ride there. He could not have gone on the second occasion because then, again, there was not sufficient time. He performed the journey in a manner which amounted to an actual feat, riding the distance—seventy or eighty miles—on the horses of the country in a single night. Therefore if he went to Melipilla at all, it must have been on the occasion of his return from Santiago to Valparaiso before he went to Lima at all. Bear in mind that he kept a journal, of which he sent several people copies, and that there is no mention whatever of Melipilla in any one of his letters. When you observe that there are only seventeen days unaccounted for, you will perhaps think that a very short period for the accomplishment of all that the defendant says he did at Melipilla, and you will judge for yourselves whether all that could be comprised in so short a time. Did Roger Tichborne stay on the way from Santiago to Valparaiso? I am going to ask whether, in the whole of this correspondence which has reference to the return journey from Santiago to Valparaiso, there is anything which would indicate that Roger Tichborne stopped at Melipilla by the way? Let me put a case. Suppose an Englishman, a friend of yours, was going from London to some foreign port by a ship called the *John Smith*—suppose he was going to sail from Bristol to Jamaica, and you were perfectly aware he was about to do so. Your friend has to write to you when he gets to Jamaica to give you an account of the incidents of his voyage, and he writes to you thus, 'I left London for Bristol on the 1st of June to be in time for the *John Smith*, which was to sail on the 2d, but when I got there I found she would be detained ten days.' What would you understand him to mean by 'when I got there'? Would you understand him to mean the place where the ship was, or some intermediate place at which he received the information that the ship was to be delayed?

It appears to me that this is a matter for your serious consideration. Roger says, 'When I had

settled all about that matter, I made my arrangements to start next morning for Valparaiso, as I was anxious to be in time for La Pauline to sail to Arica. When I arrived there I found she would not sail as soon as I thought.' Now, does that mean 'When I left Santiago, I left in order to be in time for the sailing of the La Pauline, but on my way from Santiago to Valparaiso, having received intelligence that the vessel would not sail so soon, I went to an intermediate place and stayed there?' When you look at this passage and read it by the light of surrounding circumstances, what is the meaning you attach to it? If it is the conclusion of your minds that what Roger Tichborne indicates in that passage is that he went to Valparaiso and found that the ship would not sail for a given time, it negatives the possibility of his having stopped by the way. In that case you have facts leading to the logical conclusion which I have before indicated. Now, Roger goes on giving an account of his crossing the Andes, and the letter is very remarkable in point of narration, happy powers of description and language. It is, therefore, deserving your attention. It is dated Montevideo, March 12th, 1854, and is to his aunt:

'My dear Aunt,—I was not able to write the details of my journey from Santiago to Buenos Ayres. I shall, therefore, give you an extract from my daily journal. I left Santiago on the 11th of January, with my valet and guide, two horses and four mules. Nothing occurred during the first two days, except that the scenery became wilder and wilder as we came nearer the chains of the Cordilleras of the Andes. . . . At last we came to what is in this part of the world a hill not worth speaking of, but which in England would be considered very high. One of the mules carrying my luggage commenced running down the descent. We thought she would soon stop at the end of a short time, but it was too late, so she was obliged to go on until at last the ground gave way, and then rolling on her back about 30 or 40 feet she fell a height of 50 or 60 feet and broke one of her legs. Then we all three went down.'

Here I would observe that the defendant, in his cross-examination, said that his servant refused to go down the hill, that they had a quarrel in consequence, and that one of the muleteers and he went down and collected the baggage which had fallen from the mule. Roger Tichborne says, 'We all three went down'—himself, his valet, and the guide—and found that she had one of her legs broken. During that time a troop of muleteers came up and gave us the greatest help. . . . We then set to work, unloaded the mule, put the baggage on another one, and left the mule with the broken leg to die as best she could.' A very inhuman thing to do. Then Roger continues:

'The view from the top of the first chain of mountains was certainly magnificent; the immense extent of country which I saw from the high point where I was, with the number of very high hills all round, is a sight which I believe cannot be met with anywhere in Europe. . . .'

There is very graphic power in his description of the scene. It seems as if the magnificence of the surrounding scenery had stirred his heart to its depths. He was now on the very spot of which Campbell so finely says:

'Andes, giant of the western star,
His meteor standard to the winds unfurled,
Looks from his throne of clouds o'er half the world.'

'I saw before me for the first time the Pampas, which extended before me as an immense sea—

and behind me the immense chain of the Cordilleras of the Andes, which are always covered with snow. . . . We all got into the Pampas about mid-day. I then followed the road which is traced in the grass, until I reached Mendoza two days afterwards. I remained eight days at Mendoza, waiting till the mail left, as it was my intention to go to Buenos Ayres with it. At last the day for leaving Mendoza came, at which I was glad, as I found the place one of the dullest towns I had ever seen. I started from Mendoza on the 27th of January, and arrived at Buenos Ayres on the morning of the 13th of February. We galloped over the 400 leagues or 1200 miles in a shorter time than it had been done for a long time, considering that we had been obliged to remain in different little towns which are to be met with in different parts of the Pampas ten days to get letters. I had left my valet to follow me with the luggage; he arrived about ten days after me at Buenos Ayres. It is a large town, but there is little to be seen in it. I embarked on board an English steamer on the 4th of March for Montevideo, where I arrived the next morning. I am going back to Buenos Ayres tomorrow to embark shortly for Rio de Janeiro and Bahia, on my way to Para, where I shall remain some time exploring the Amazon, which is the most interesting point to visit on this side of South America. I shall go from thence to Kingston, Jamaica, West Indies, to get any letters which may have been written to me from England. I shall go from thence to Mexico, to explore that part of the world. As to my future plans, it is quite impossible for me to let you know at present. I shall write to you, if I have time, from Rio de Janeiro or Bahia; but I may, perhaps, wait till I find a letter from you at Kingston. You have, I fancy, received my picture which I sent to you from Santiago. I did not know if you would care about it, but if you don't you only want to throw it in the fire; and it will be an end of it, that's all. I only thought at the time that it might be, if we are not to meet again, a kind of souvenir—that is what was my idea; but still, at the same time, you might not care about it—there is no harm in it. . . . I expect to find a letter in Kingston which will be at least of 16 pages. Give my love to my cousin, and believe me, my dear aunt, your affectionate nephew, 'R. C. TICHBORNE.'

In a letter to his mother written prior to that date he promises to send her an extract from his journal, and I cannot help supposing when he sat down to write the extract from his journal to Lady Doughty he did it in the same terms. We have been strongly pressed by the counsel for the defendant about the accident to the mule and the defendant's knowledge of it. But if Roger sent to his mother the same extract from his journal as he sent to Lady Doughty, the accident to the mule is fully described. And I think the defendant admits that a copy of the journal had been sent to his mother. Now, the question is, what became of the letter sent at the same time to the mother? If there was such a letter, it has been withheld. If that letter ever reached Lady Tichborne it must have contained the account of this accident, and coming into the possession of the defendant, given him the necessary information with regard to the accident as well as the other incidents of the journey. On the 1st of March 1854, Roger writes the following letter to his mother:

'My dear Mother,—It is certainly strange that every one of your letters, as far back as I can re-

member, have always been, and are still now, always on the same subject, without the least variation. Those subjects are invariably the duties of a son towards his mother, which fill up, as a matter of course, at least the two first pages. The two other pages are generally filled up with all kinds of imaginary fears, and a list of accidents, the illness and sickness of every description which are quite unknown to any body else but yourself. It must be certainly the work of your imagination which makes you think of so many things. Another thing also, where I think you don't at all treat me fairly; you treat me in your letters usually like if I was twelve or thirteen years of age, and, moreover, as if I was quite incapable of taking the least care of myself. I beg to say that I am quite old enough to take care of myself, and that just as circumstances require it. Afterwards, if you were always determined to think that I am ill or sick, or anything else, when I tell you in my letters that I am very well, it is perfectly useless for me to write to you to let you know how I am, as you don't appear to believe what I say in my letters. I shall not in future wait for your letters to write, as they don't contain any news from you or my father, or any kind of news which require an answer. I shall, therefore, write to you from the principal towns at which I shall stop, without waiting any more for your letters.

'The servant which I took at Lima suits me very well. I have had him in my service now for some time, and I have no doubt that he will go on as he has begun, and follow me in all my travels, and come back with me to England. It is quite impossible for me to fix in any kind of way the time of my return to England. The life which I am following suits my taste too well for me to leave it in a hurry, especially as my health is remarkably good, and promising to keep so for a long time to come. I left Santiago in the middle of summer, which is the month of January—that is to say, on the 11th of January, to cross the Cordilleras of the Andes. We did not though reach the foot of those high mountains till the morning of the third day, when we began to ascend the first chain of mountains; we got down the other side early in the afternoon; we pushed on with our horses and mules, so as to be able to reach the foot of the second chain of mountains, but it was not possible for us to reach it that day. We had, therefore, to build up our camp and cook up our dinner, which we all took with delight, as we had all of us very good appetites. After dinner we prepared our beds, which was nothing more than sheep skins, and after rolling ourselves in our cloaks went fast asleep. The next morning we were up before sunrise, and after loading our animals started. We crossed the second chain of mountains which is called the Portillo, which is by far the highest of the two. We arrived down the other side rather late in the afternoon, and, after following the valley for some time, made up our camp for the night in the same way. We got down in the Pampas the next morning early.

'Nothing more worth notice took place till we arrived at Mendoza. I have seen certainly a great many countries in my life, but I never saw one where the sceneries which a person sees from the top of the Cordilleras of the Andes, for the wildness and magnificent scenery which he sees before him I don't think that there is anything to be compared to it in the world. The distance from Santiago to Mendoza by the way I came is 78 leagues. I was eight days in performing my jour-

ney. Mendoza is a well-built town; it has the Cordilleras on the one side and the Pampas on the other; as there is no commerce in the place it makes the town very dull. I left Mendoza on the 27th of January with the post for Buenos Ayres, where we arrived on the 13th of February. The Pampas are very large grass plains, where small towns and post-houses are met with from place to place to change horses. The number of persons crossing the Pampas now is very great. Buenos Ayres is rather a large town; it counts about 60,000 inhabitants, chiefly all Europeans. This town is very wholesome; there is not any kind of sickness in or about the place. I expect to leave it in a few days for Montevideo, where I shall remain a few days before I go to Brazil. When you answer this letter direct yours to Post-office, Kingston, Jamaica, West Indies, where I shall only call to get my letters on my way to Mexico, where I expect to be in about three months and a half. I have not time now to send you an extract of my daily journal to-day, but I shall write it out for you as soon as I shall have time. I suppose you must be by this time accustom to the English country life, which is by far the best life to lead. Tichborne is a very nice place in all seasons in the year. I received your last letter by this last mail.

'Pray give my love to my father and Alfred, and believe me, my dear mother, your very affectionate son,
R. C. TICHBORNE.

'Lady Tichborne, Tichborne Park, Alresford, Hants, England.'
From Buenos Ayres he writes to Mr. Gosford the following letter:

'Buenos Ayres, March 17, 1854.

'Private and confidential.

'My dear Sir,—I reply to your letter which I found waiting for me at Montevideo. I think it quite necessary to alter the will which I had written by Mr. Slaughter in London, in June 1852, so far, at least, as Everard Arundall is concerned. As he is going into the noviciate at Stonyhurst, to become a Jesuit, I don't think that in case there should be no male issue from either me or my brother, it would be desirable to leave him such power as named in my will in the property. I, therefore, wish that on the receipt of this letter you will write at once to Mr. Slaughter to have E. Arundall's name scratched out of my will. I don't wish anybody at present to be named in his place. There is another thing on which I have thought for a long time; I and my mother never could agree together. It would, therefore, be desirable, in case my father should die during the time I am travelling, to insure her (if it has not been done already) so much a year, to live where she liked except at Tichborne, as it would be quite impossible for me to put up with her character. I wish you to speak on the subject with Mr. Slaughter, and write to me what you thought upon it, and direct your letter where I told you in my last letter.—Believe me, yours truly,

'R. C. TICHBORNE.'

It would appear from this that Roger, in the simplicity of his mind, thought that a man could alter his will merely by writing to his agent to strike something out of it. That was a notion he had got into his head, and a very foolish notion it was. Again, there comes a second letter to Mr. Gosford on the subject of Moore:

'Buenos Ayres, March 20, 1854.

'My dear Sir,—I have not yet alluded to a subject concerning Moore. . . . When he was so ill at Santiago last July, I was foolish enough to tell him that if on my return to England I was obliged

to get up a house I would take him as a butler; I forgot that to tell him when I was last in Santiago that it is now a thing quite impossible for several reasons. First, when I came back to Valparaiso, I was quite surprised to hear from everybody on board what extraordinary rumours he had been spreading about me. . . . Secondly, it is not my intention to set up a house, as it is not my intention to marry. I don't think it ever likely that I shall ever make any long stay in England during my parents' lifetime. . . . I fancy that Lady Doughty inquires sometimes if you had heard from me, and what may be my intention of coming back to England or other things, I don't know. I suppose the whole subject of myself and my cousin has never been alluded to by her to you either by word of mouth or writing. I never mention anything to her about it in any of my letters; and I never write any of those private letters she used to like so much. Letters she receives from me are very curt, but there is nothing in them which cannot be shown to everybody. I am sorry you never told me what my poor uncle Doughty left me by his private will. I hope I shall learn it in the letter which I expect to find at the Post-office at Kingston.—Believe me, dear sir, yours truly,

R. C. TICHBORNE.

'P.S. Moore thought himself put, I believe, as a kind of tutor over me by my family, which is a thing I won't stand from anybody.'

Here again is a very remarkable letter to Gosford:

'Buenos Ayres, February 20, 1854.

'Private.

'My dear Sir,—Many thanks for the only letter which I received from you since I left England, which came by the last mail, and which was delivered to me this morning. I am not, I must say, the least surprised at the news which you give me about Tichborne and my mother. I have for many years foreseen what is taken place there at present. It was one of the reasons (though I did not tell you at the time) why I was so very anxious to get out of England before my poor uncle's death. Because if I had been there at the time I should have been thrown in the middle of all the different parties which unfortunately divide the family. I should have been in consequence of it obliged to take part for somebody or to put myself against everybody, which would have been most likely the case on that occasion. I am really very sorry that my mother's character is so disagreeable, because it must make it a kind of hell for my father and everybody in or about the house. I was very sorry to learn at the same time, though I don't wonder at it, that my father felt so low in spirits; still I know but too well that I can do nothing for him, and I know, moreover, that if I was there it would be ten times worse than it is at present. There is unfortunately no remedy for it. I suppose that by this time you must have heard something about those Italian Princesses whom my mother is so anxious that I should choose one to marry. I used to hear nothing spoken of whilst I was in Paris from morning to night about them, though I always used to say that I would not give sixpence for a whole cargo of them; but all that I could say was to no purpose. I have seen and known too well what is married life so as not to go and marry myself. I have done certainly a great many foolish things in my life, but I hope to keep clear from that one at any rate, notwithstanding all what my parents and relatives may or may not say. The life which I am leading now suits me remarkably well. I am

perfectly independant. I go and do what I like, and I have no lady to act as spy over me, which is a great blessing, among several others.

'It is quite impossible for me to fix the time when I shall come back to England, where I have, I assure you, but little wish to come back to witness scenes like those which must occur daily at Tichborne, and I have not received any letter from Lady Doughty since the one which I received shortly after my arrival in South America. I don't know what became of her different letters if she has written some since, which I am rather in doubt of, as I answered rather sharply to some remarks and allusions which she made in her letter. I am not in the least surprised to hear that she had taken a house in London for six months, knowing how fond she is of London life. I shall write to her by this post if I have time, because I have a great many letters to write by this post. But in all cases, don't forget the first time you write to her, to tell her if she favours me with a letter to direct it to Kingston, Jamaica, West Indies, where I shall be in about three months on my way to Mexico. I shall call there to get any letters which may have been written to me from England. I shall write to you from there to let you know where you are to direct your letters afterwards. But don't fail yourself to write, that I may find a letter from you there.

'I don't know why I never received a letter from my father since I left Europe, though I have written him several times. The only letter which I received was from my mother at the beginning of last August. I found, to my great surprise, J. Moore selling pills at Santiago. He appeared to me to be at the tip-top of happiness to be able to take as many pills a day as he liked, and to sell so many boxes to so many credulous persons who thought that those pills could cure from all kind of illness and sickness known and unknown. I was very sorry to hear of his father's death; I fancy that he must know it by this time. I arrived here on the 13th. I was very glad to find a letter from Mr. Slaughter waiting for me here, as I had not heard from England for ever so long. I don't fancy that the London season will pass over this year without Miss Doughty being engaged to marry. I expect to see first the news of her marriage when I shall be travelling about in the British Colonies, in some English newspapers. I mentioned to Lady Doughty that it was not my intention to come back to England before two or three years are over. Perhaps you have heard of it already. But now I trouble myself little of what her ladyship thinks about me or about what I intend to do. You have forgotten to tell me in your letter what my poor uncle left in your charge for me, and what had been sold at Tichborne at his death. I have not time to send you an account of my travels in this letter, but I shall send you a copy of my daily journal from Rio de Janeiro or Bahia. Don't forget to write to me and direct the letter where I told you. Pray remember me kindly to Mrs. Gosford, and believe me, dear Sir, yours truly,

R. C. TICHBORNE.

'P.S. I shall drink a good glass of rum punch to your health in Kingston, Jamaica. Do you want some, so as to be able to go to bed singing "Come with me to fairyland," or "We won't go home till morning, till daylight appears." I am obliged to sing those songs all by myself in this part of the world. I am going to Montevideo, I hope, in a few days, on my way to Brazil. Be assured that I would not live in a house like Tichborne is, not for any-

thing in the world. There is a bust in the large box which you will receive, which I bought for my brother, so will you have the kindness to give it him for me from my part when you see him?"

In this letter we have sentiment and interest side by side. We may again see appearing marks of affection for his cousin, to whom he still remained as attached as ever. He had gone away, from love of travel natural to a young man, to see modes of life and habits which he could not see at home, and partly to drown, if he could, the painful recollections of a life of disappointment. I cannot help thinking that the wound had never healed, even in the midst of the magnificent scenery through which he was passing. As the Roman poet says, the deadly arrow still remained fixed in his side—he could not shake off the fatal dart. I see plainly from this correspondence that he endeavoured to shake off his feeling for his cousin, but, as Horace says, a man may fly from his country, but he cannot fly from himself. He never shook off and could never shake off that first affection which any one reading those papers and watching the whole course of Roger's career cannot help seeing was deeply rooted in his heart, not a feeling of low, base passion, as the counsel for the defendant painted it, but of real and pure love. This matter has little to do with the question we are trying, but it is only just to the memory of Roger Tichborne if he is dead, and to his character if he be living, that point should not be misrepresented.

There is a passage in a letter to Mrs. Seymour from Buenos Ayres which is very remarkable as bearing on the question whether Roger Tichborne intended to return to England. This is the passage: 'I shall feel much obliged if Henry had my name put up at the Travellers' Club, as I should like very much to be a member when I come back to England.' I don't think you can have better evidence that he did intend to return to England, and that expatriation was not then contemplated by him. The defendant's counsel represented that Roger was weary of the world, and therefore that he had determined to retire from it and devote himself to a life of contemplation. The Travellers' Club would be the last place I should fancy for a life of meditation and retirement. Unfortunately the most *recherché* cookery, the rarest wines, and the pleasantest society would be the lot of the anchorite who had his name put up at the Travellers' Club. The passage I have read shows that Roger contemplated not a final expatriation, but a temporary sojourn abroad, and that he intended to return to England, but, if his father and mother were alive, to make only a temporary stay there.

Now, gentlemen, we have traced Roger Tichborne to the close of his career in South America until at length we find him taking a passage on board the *Bella*. The account of Captain Oates is this. Roger had got to Rio de Janeiro, the place at which he intended to embark. It is said that he got into difficulties, and that his funds were exhausted. Accordingly he proposed to Captain Birkett, of the *Bella*, to give him a passage on board, telling him that he did not mean to pay just then. Captain Birkett was not indisposed to do so, but, thinking it might displease the owners, he consulted Captain Oates as to what he should do. Captain Oates, being a good-natured fellow, said, 'It will be all right. He will pay you when he gets to New York, and if he does not I will bear you out, and explain all the circumstances to the owners.' So the matter was arranged;

but then there was another difficulty. Roger had to give notice to the authorities at Rio of his intention to leave, and there was a difficulty about getting a passport. 'So,' says Captain Oates, 'we agreed to smuggle him away.' The evening before the vessel was to start, accordingly, Roger went on board, and, that his presence there might be concealed from the local officers, it was arranged that he should be put out of sight of everybody. While the vessel was preparing to get under way and the local officers were coming on board, they put Roger into the lazarette, below the captain's cabin, and the hatchway of the lazarette was covered with a table, upon which some coffee for the officers was placed. There was no suspicion of anything wrong on the part of the local officers. Captain Oates came on board in the morning, but returned to his own vessel when the *Bella* was going to sail. The evidence in this matter is altogether conflicting, and it is impossible to reconcile the two statements. The defendant's case is that instead of being put into this lazarette he was put into one of the after cabins, which had been before used as a store room, that he never left it, that he was in such a state of thorough debauch and drunkenness in Rio that he was incapable of finding his way to the ship, and that they were obliged to hunt for him for two days before they could find him.

On the morning of the 20th the *Bella* sailed, and four days afterwards facts came to light which could leave no doubt that the *Bella* had foundered and gone down in the deep sea. Her longboat was found bottom upwards, and in the immediate vicinity were articles of wreck which belonged to the ship. The question remained whether those on board had perished. When a ship goes down, and nobody knows how far out at sea in the great deep, the presumption is that every one on board goes down with her; but still there is always a hope, as long as hope can be reasonably entertained, that those on board may have escaped. Accordingly, for a time that hope would be naturally entertained, in spite of the presumption that it would be most unlikely that those on board would reach the shore. But here there was this additional circumstance against the hope—the longboat was found bottom upwards, so no one could have been saved in her. But it might be said there were other boats on board in which some persons might have been saved. But then there was this awkward circumstance—that the longboat was found bottom upwards in the immediate neighbourhood, and articles of wreck which belonged to the *Bella*. So that it would appear if any persons got into the longboat they would have remained exactly in the same spot where the articles of wreck were found, which was highly improbable. Therefore the inference was that the longboat had never been taken to by persons attempting their escape. As long as hope could be kept alive hope was kept alive; but there is an end of everything, and the idea that Roger Tichborne was saved was given up. Everything was done that could be done under the circumstances. A vessel was sent out by the Admiral on the station to scour the surrounding seas, and see whether any other boat was to be found, but there was not a trace of any.

Well, gentlemen, Roger Tichborne being for a time supposed to have gone down, let us see upon the whole review of Roger Tichborne's life, from what we have heard and read about him, whether we can form any satisfactory estimate of what he was, so as to apply it by and by as a test

to the defendant, with a view of seeing whether in the defendant we recognise the man whom as Roger Tichborne we are able to portray to the mind's eye, physically, intellectually, and morally. Because it is certainly very essential, that in making this comparison between them as a test of identity, we should have a very clear and definite view who and what Roger Tichborne was. Next let us form a correct judgment as to what, when Roger Tichborne went on board the *Bella*, were his intentions and resolutions with regard to the future. If Roger Tichborne had certain definite intentions with regard to his future career, does the conduct of the defendant square with those intentions?

There are certain points of personal appearance which are common to both parties. Roger Tichborne was a man 5ft. 8jin. in height, as we know, when he entered the Army. He was then 20 years and six months old, or thereabout, and he probably never grew after that period. The military tailor does not suggest that he had to take his measure a second time. Then we know that he was a very slight, slim, spare man, so small about the hips that artificial means had to be adopted to enable him to keep his sword from falling down about his feet. We know what kind of hair he had, for we have some of it which was cut off by his mother in 1852, and we can by inspection satisfy ourselves as to it. No doubt lean men may grow into stout men, but Roger Tichborne was not the kind of man that you would suppose would have grown into great bulk. It is quite clear, whatever the *physique* of Roger Tichborne, he must have been a man of considerable nervous and bodily energy. He was fond of hunting, of shooting, and of fishing. What the amount of his physical energy may have been is manifest from this—that we have him not giving himself up to the pleasures of bed or table, or idleness, but he is anxious for active service, he wants to get to India, and he is dissatisfied with the Army only because he cannot get active service in it. He therefore makes up his mind to go and travel in South America and Mexico, and when he gets to South America we find that he rides 70 miles in one night. That does not show a man so weak that he can hardly get along. No doubt his health had been bad in England, but the sea air may have had an invigorating effect on him.

Then, as to Roger's intellectual character, he was a man whose education had been grossly, shamefully, I might almost say, as far as his parents are concerned, sinfully neglected. Chatillon had done something for him, but after that he fell into the hands of as bad a preceptor as could possibly be. He was brought to England, and put into a place where education may not have been carried on upon the highest possible principles or in a manner to impart the highest degree of proficiency; but, nevertheless, he undoubtedly did learn something there, and though much given to the pleasures of the field, and perhaps to the bad propensities of drinking and smoking, he still seems to have found time for reading, and had a taste for literature. We have not his books before us; they were sold at one of the forced sales which were held when the Sheriff's officers took possession of his brother's place. But there is a list of books in the shape of a small memorandum for future study, and among them appear some authors of the highest class, such as Virgil and Livy, Corneille and Molière, in whose *Misanthrope* we know that he was able to appreciate the distinctions between one character and another, which shows he was not the utter blockhead which has been represen-

ted. Then there were the works of Chateaubriand, and there were some mathematical books of a high order, which I do not suppose he read, but which show that he had some appreciation of science. His intellect, I am ready to admit, was not one which would have gone far, but with ordinary cultivation it would have been capable of a great deal of information as the world goes.

Next, as to his moral character, every one seems to agree that he was a person of very amiable disposition and pleasing manners. They were the manners of a man of kindly feeling. I don't suppose there was much beneath the surface, or that he was a man capable of very warm affection. In the first place, it is quite clear from his letters and his language where he opens himself in the fulness of confidence to Mr. Gosford or Lady Doughty, that he had not much love either for his father or mother. If he loved his mother much, filial affection would have led him to draw a veil over her faults. He treats his father much more tenderly, and it is possible that his affection as between his father and mother was for his father and not for his mother. But even there he is never found consulting his father's wishes or yielding to his desires. He forms his own judgment on everything, and does not make a friend of his father as a son should. And yet it is impossible to doubt, however foolish Mr. Tichborne and his wife's treatment of Roger may have been, that they both loved him. Then, with regard to Sir Edward and Lady Doughty, they had been a second father and mother to him, their house had been his house, and their home his home. Nothing could have been kinder. But the moment Lady Doughty crosses him in small matters or in great, whether in the matter of some small article of family furniture or in his affection for his cousin, he speaks of her in terms of alienation and resentment. Then, as to the Seymours, Mr. Seymour dies, and his death appears to have had no effect upon Roger, who speaks of it quite coolly. He was on very pleasant terms with the rest of the family, but I don't see anything which shows that he had a warm or deep affection for them. But, though I cannot believe that Roger had a warm affection for those for whom one would naturally expect that he would have it, there is one thing not to be lost sight of—that under no circumstance was Roger Tichborne ever wanting in the decorums, decencies, and proprieties of life. He never fails to write habitually to every member of his family, and to desire to have news from them. He writes to his father, to his mother, to his aunt, to Mr. Seymour. He writes constantly to his family. That is a circumstance which must be taken into account in considering the conduct of the defendant. But, though in writing to his father and mother he does not write in the terms of the unbounded confidence which one would naturally show to a father or mother, there is one in whom his confidence appears to have been unbounded, and that was Vincent Gosford. There is no subject, however near his heart, that he does not write to him about. To him he opens his heart with the utmost confidence, and that is a circumstance you will have to consider by and by when the defendant and Gosford meet in this country.

The scenes which he had lived through with his father and mother made him from a very early age determined to judge for himself. Others might lean on the judgment or advice of parents; the contrary was the case with Roger Tichborne. Suggestions of any kind from his father's

mother were enough to make him set his back up. His mother was very much dissatisfied at his going to Stonyhurst; he determines to go and stay there, and she rebukes her sternly. When he leaves Stonyhurst, she wishes him to go back, but he sternly refuses. He wishes to go into the army; his father and mother oppose it. He goes into the army. His regiment is not going on foreign service, and he makes up his mind not to stay at home. He says, 'I will go to India.' 'For God's sake,' they say, 'don't go. Your uncle is old, your father is old; don't go to a foreign country.' But he says, 'I will'; and when his regiment came to effect an exchange, he makes up his mind to go to South America on foreign travel. There is the same lamentation on the part of the father and mother, there are the same remonstrances; but they have no more effect on him than the wind which passes him by. So, as regards property, he had made up his mind that the Upton property should not be sold. His father, his uncle might remonstrate, but all in vain. The great object of a long line of ancestors was to aggrandise the Tichborne family by acquiring land in Hampshire, and making themselves of still greater consequence in the county. That was not the view of Roger Tichborne, who thought the property in Hampshire was too much, and he would cut it in two. He goes to his lawyer and gets a will made which would cut his uncle and father to the heart. As it turned out, the effect of that will would not be to divide the vast property, worth 25,000*l.* or 30,000*l.* a year, in the way he desired. It is the opinion of many people that these vast properties are not desirable. I do not deal with that question; I only point out that Roger Tichborne in that will was running counter to the wishes of his father and his uncle. With respect to his want of warm affection for his family, I have to make an exception in favour of his brother, whom he always speaks of with the tenderness and affection that are shown to a pet child. On the whole, he was a person who looked very closely to his own interests, and when Robert Tichborne dies, and when his uncle Doughty dies, though very little affected by their loss, there is one question which immediately occurs to him: 'What has been left to me by their wills?' His father was careless in business habits, and left himself in the hands of the lawyers. Not so Roger. His words always were: 'Let me see a summary of your scheme; let me see the deeds that I may make myself thoroughly master of them.' 'I give you instructions about my will. Let me have time to study it before I sign it.' Well, then the question is, was the knowledge which the defendant exhibited of Roger Tichborne's affairs such as you might expect from Roger Tichborne? In order to answer that question, you must appreciate for yourselves what it was that Roger Tichborne knew as well as what it was that Roger Tichborne did.

There is one more point connected with the character and the habits of Roger Tichborne. It is impossible to hold him up as a sort of paragon of virtue and morality, and I dare say that he, like many other people, had his sins to answer for. But the point now to be considered is his propensity to drink. There cannot be the slightest doubt that Lady Doughty's view of Roger Tichborne in this respect was the right one for a considerable time, and that he had from an early period a *tendency to drink*, although it is nonsense to say *he was an habitual drunkard*. It is going a great deal too far to say that he drank so much as to

impair his intellectual faculties, and there is no evidence at all which leads to the conclusion that he was an habitual drunkard. His depressed state of mind may have sometimes made him resort to the bottle as a means of raising his spirits, and on a few occasions he may have taken enough to make the effects of drink perceptible, but that he was an habitual drunkard I cannot bring myself to believe. Several officers deny altogether that he was given to drunkenness, although Captain Conolly said that Roger Tichborne, while in Ireland, used to 'soak his brain,' and that it was sometimes doubtful whether he was perfectly master of himself or not. However, we know he wrote to Lady Doughty saying he had effected a reform, and I cannot help thinking that when Roger was at Tichborne and Canterbury in the early part of the year 1852, Lady Doughty was rather too hard upon him, for, though he may still have occasionally indulged in drink a little too much, he was not then in the habit of drinking to the same extent as he did at a former period. With regard to this part of the case, it is not of so much importance to determine whether Lady Doughty was justified in opposing his union with her daughter as it is to ascertain whether the contention of the learned counsel for the defendant is well founded when he says that Roger Tichborne, by his excesses in drink, had brought his mind into such a state that his faculties were impaired, and his memory was seriously affected. By and by we shall find indications of total want of knowledge on the part of the defendant of important periods of Roger Tichborne's life, which want of knowledge the learned counsel ascribes to defect of memory. Therefore, gentlemen, it is necessary for you to satisfy yourselves as to whether Roger Tichborne was in the habit of sottish enjoyment of the brandy or the wine bottle so as really to damage his intellectual faculties.

So much for the general character of Roger Tichborne, of whom we now for the present take leave, until we see him reappear—if indeed he does reappear—in a new form, and certainly essentially unlike the Roger Tichborne of whom I have hitherto spoken.

The Bella went down, portions of the wreck floated about, and her boats disappeared. Weeks, months, years passed, and there came no tidings of her. There was no voice either from the sea or from the shore to lead to the belief that any of the persons on board the Bella had survived her wreck. The owners made a settlement with the relatives of the members of the crew, the insurance was claimed and paid, and in brief everything was done as if the Bella had perished, and with her all who had been on board. After the lapse of 15 months the executors of Roger Tichborne's will produced and proved it, and, though their conduct has been reflected upon by the defendant's counsel, I must say they only performed their duty in acting as they did. So far from Mr. Slaughter and his fellow-executor having been to blame for proving the will, they would have been guilty of a dereliction of duty if they had any longer neglected to do so. Everybody supposed that Roger Tichborne was dead with the single exception of Lady Tichborne, who clung with desperate tenacity to the hope that her son was still living. Time passed on. Alfred Tichborne, the brother, came of age, entered into possession of the Tichborne and Doughty estates, and obtained the hand of a daughter of a nobleman of distinguished lineage, Lord Arundell of

Wardour. Sir James Francis Tichborne, the father of Roger, died on the 11th of June 1862, at the ripe age of 78.

Nobody dreamed that Roger Tichborne still survived in any corner of the earth, however remote, when on a sudden, towards the end of the year 1866, there came a startling report that he had reappeared. It was rumoured that from some nook in Australia a man had come forward saying, 'I am the long-lost Roger Tichborne.' People could hardly believe their ears when they heard this startling announcement made. However, time wore on. That which at first appeared like a romance or a dream gradually assumed the character of reality, and the defendant, who was formerly known as the Claimant, at last made his appearance. But then, to the astonishment of every one concerned, he appeared not the lean, slim, spare Roger Tichborne, but a man of prodigious bulk: not a Frenchman, who spoke French by preference, and English only with a French accent and imperfectly, but a man who could not speak a single word of French, who had lost the French accent in speaking English, and who no longer spoke English with foreign idioms, but spoke simple unalloyed vernacular English, though certainly not of the finest quality. Moreover, to the still greater astonishment of those who had been related to or intimately connected with Roger Tichborne, instead of hastening to seek them out, he kept himself aloof from them, moved about more or less stealthily and in concealment, and seemed to shun and avoid all those persons who were best able to recognise Roger Tichborne, or to judge as to the Claimant being an impostor, if, in fact, he were one. Perhaps all this can be explained satisfactorily, but undoubtedly such a course of conduct on his first arrival in this country was not calculated to remove the distrust which his reappearance and the circumstances of his past life in Australia were likely to engender. Therefore he did not meet with the recognition he hoped for on the part of the Tichborne and Seymour families. The public at large and the persons most interested in the question of his identity remained for a long time unacquainted with the circumstances connected with his escape from the shipwreck. Those who first identified the defendant as Roger Tichborne do not appear to have been desirous to inquire into these details, as to which I should have thought they would have at once requested information. Nor do they appear to have been anxious to know the phases or the various forms of the life he lived in Australia.

At last the time arrived when it was necessary that these details should be gone into by the defendant, when he sought the assistance of the Court of Chancery, because after the silence of 12 long years it would have been vain for a man who was not recognised by his family to ask the aid of that Court unless he gave a full and satisfactory account of himself during the time he had remained absent and silent. The defendant accordingly made an affidavit in which he gave succinctly, but sufficiently for the purpose, an account of his escape from the shipwreck, of his landing in Australia, and of the life he had there lived. The details I shall endeavour to place succinctly before you, not merely with reference to the affidavit, but with reference to his examination, first under the direction of the Court of Chancery, and also with reference to his examination and cross-examination on the trial in the Court of Common Pleas. At the present moment I do not propose, however, to place these in juxtaposition, and to

point out the differences between various statements made by the Claimant; but I will take his account as it was last stated. I will simply analyse that statement and see what degree of merit it is entitled to, irrespective of all other considerations calculated to detract from its merit. Now, his statement is this:

He says that he went on board the *Bella* in a state of drunkenness, and that for two days previously he had been in that condition. He got more drunk on board, and remained drinking for three days, so that he was unable to go on deck. On the fourth day, however, having partially recovered, he went on deck about 10 o'clock in the morning. The sea had been rough during the night, but it was then smooth, and while he was looking out one of the crew came up and told the captain that the ship was very low in the water. Accordingly the captain at once ordered the well to be sounded, and found there was 12ft. of water in the hold. As the ship was one of between 300 and 400 tons burden, 12ft. of water in the hold must of course have brought the ship into such a condition that she must have been in immediate danger of sinking. The captain, who had not observed this before, immediately ordered the men to go to work, but after five minutes' pumping it was found that instead of the pumps gaining on the water, the water was gaining on the pumps. Thereupon the captain gave up all hope of saving the ship, and ordered the boats to be lowered. There were three boats—the longboat on the deck, and two boats slung upon the davits. One of these boats had a hole stove in her and was useless. The other boat was ordered to be lowered, and the longboat was also got into the water. The captain took with him into the longboat—of which he assumed the command—compasses, charts, and the ship's papers, together with provisions and water. Then arose the question as to who should go in the longboat, and who in the other. The captain took charge of the longboat and asked the mate to command the other; but the mate refused to do so, and went with the captain. And now what becomes of Roger Tichborne? He says: 'I got into the small boat in which there were no provisions or water, but we were directed by the captain to follow the other boat and to come up to her every night and morning for provisions and water.' Then he goes on to say that during the whole night and the next day and night they followed the longboat and got their food. Neither boat, I ought to remark, appears to have had either mast or sail. On the second night, he says, it comes on to blow; the sea is rough and the night dark; they lose sight of the larger boat, and never see her again. During the whole of the third day they are without food or water; and on the morning of the fourth day they desory a sail in the distance, but they are disappointed in their efforts to overtake her, for a breeze springs up, and she sails away, leaving them baffled in their hopes. At last it occurs to one of the sailors to take off his red shirt and hold it up as a signal of distress. It is seen, and after a time the vessel picks them up. The defendant goes on to say, 'By this time, having been three days and nights in the open boat, and having been exposed to the scorching rays of the sun, I was so exhausted that I became insensible, and in that condition I was taken on board. I remained in that state for some time. I was not merely insensible, but I became delirious, and for a long time I was subject to fits of delirium

Not that I was always delirious, for sometimes I was well enough to dine at the captain's table. At other times I was unable to leave my berth. I was treated by the captain with the greatest possible kindness; but during the greater part of the time I was in such a state that I could not give you any account of what happened.

The first and natural question to put to him would be: 'You say you were picked up by a vessel when hope must have disappeared. At the same time your story is strange, and with the view of ascertaining whether it is true we ask you what is the name of the ship and where did she come from?' To this he replies, 'I don't know.' 'What was the name of the ship?'—'Well, I believe—my impression is—that it was the *Osprey*.' 'Can't you tell us the name of the captain?' 'No; but I think it was Owen Lewis or Lewis Owen.' Now, gentlemen, do you think it possible that a man could have been saved from impending death, and that after having remained for three months on board the vessel which saved him, he should be unable to state her name or the name of her captain? He says: 'I was so ill that I could not ascertain.' But he also says he was well enough to tell the captain his own name, and he informed him it was Roger Tichborne. Further, he states that he was treated as a young English gentleman, and that the vessel which picked him up was larger than the *Bella*, and ship-rigged.

Then the defendant tells us that when the vessel got to Melbourne he landed with the captain, whom he accompanied to an establishment which he believes was the Custom-house, where of course it would be the first duty of the captain to go. The captain, he says, then took him to another place, where he endeavoured to obtain for him a passage to England. The answer given to the captain was that Melbourne was then in a state of disorder, in consequence of the gold fever; that the owners of ships could not get crews to navigate them back to the places whence they came, and that, therefore, intercourse with England was suspended. The defendant tells us that he returned with the captain to the ship, slept on board, and went on shore again the next day. Wandering about Melbourne, he finds himself in a yard where sales of horses by auction were held. There were some horses exhibited, and one of them was vicious. A stranger says, 'What do you think of that horse?—do you think you can ride him?' 'I am sure I can,' says the defendant. The defendant does so, and a conversation ensues, in the course of which the stranger says, 'If you can ride like that I can find you employment. I am a stock-keeper at a cattle station some 300 miles in the interior; and if you have a mind to go, there is thirty shillings a week for you. It is a pleasant employment, and the life is an easy one. You only have to look after the cattle in the runs, to bring them in, and occasionally to slaughter them. Besides, if you are fond of sport, there are opportunities of a little hunting and shooting.' 'So,' says the defendant, 'I accepted the offer. I did not go back to take leave of the captain, but I followed the stranger to his hotel. The stranger turned out to be Mr. W. Foster, the manager and superintendent of a cattle station at Boisdale. Next morning we started on horseback for that place. After staying there several months he transferred me to his station at Dargo, where I stayed about nineteen months, and there my wages were raised to forty shillings a week. Then, in consequence of a man

being murdered, finding myself in this lonely station, I would not stay there any longer, but went back to Boisdale for three or four months longer, after which I finally left Mr. Foster's employment. After knocking about the country for some time I set up a butcher's shop, but failed at the end of seven months through want of capital. Then I went to Wagga Wagga. Before I set up the butcher's shop I took the employment of driving the mail between two places. The distance between them was forty miles. It was a rough life, which exposed me to dangers, but I earned my bread by it, and continued at that employment for several months. Then I went to Wagga Wagga, where I finally settled. I entered the employment of Mr. Higgins, who kept an hotel and a large butchering establishment. I became his servant at weekly wages. After continuing with him for some time I again set up for myself, but again failed for want of capital. Then I determined to go back as a journeyman to Mr. Higgins. This ended in my being in debt, poverty, and distress, more especially after I married. I was discovered in a singular manner by Mr. Gibbes, an attorney. He found me out, drew me forth from the obscurity in which I had lived, and impelled me, or rather compelled me, to come forward as Roger Tichborne.'

Now, gentlemen, it is impossible to say that this account given by the defendant, whether it be true or not, does not labour under inherent difficulties of a most formidable character, passing by all the difficulties attached to his narrative of the foundering of the *Bella* and his being saved by a vessel which he believes to have been the *Osprey*, and taking only that part of the narrative which describes his landing and his subsequent life in Australia. In the first place, is it possible to suppose he would not have written a letter, even if it consisted of only a few lines, to say that he was alive and safe in Melbourne? Is it conceivable that he should allow 12 years to pass by without writing home? It is true there are men who are perfectly callous and indifferent to the sufferings of others. Arthur Orton was such a man, for we know that from June 1854, till October 1866, no tidings came from him to gladden the hearts of the old people in the shop in Wapping. His father and mother went to their graves in total ignorance of what had become of him. But was this the character of Roger Tichborne, the incessant letter-writer and reader of news? Did he intend to cut off all communication with his family and his confidential friends? Why, he earnestly entreated all the friends to whom he wrote to continue their correspondence with him. Judging of the man by all we know of him, can it be supposed he would allow father, mother, and friends to remain in perpetual perplexity and ignorance of his fate? Would you not rather have expected that long before the ship cast anchor in Hobson's Bay Roger Tichborne would have put down every incident of his voyage, and especially the facts of his almost miraculous preservation? At all events, if he did not do that during the progress of the voyage, as soon as the anchor was cast at Melbourne and he landed, would he not have written to relieve the misery and anguish which he knew must exist in the minds of father, mother, and relations, as to what had become of him? He was perfectly well aware that they knew of the *Bella* being missing, and even if the men in the other boat had been saved, the same doubt must remain as to himself, and they would in time assume that he was dead. He must know that before that time arrived they would

suffer the agonies of 'hope deferred which maketh the heart sick;' that every morning on hearing the postman's knock they would rush to the door to see whether there were any tidings of him; that they would look daily to the shipping intelligence in the newspapers to learn whether any news had been received of the Bella or her shipwrecked crew. It is impossible that the man could have been insensible to these things. Besides, he must have known that every day's delay, though it might tend to put an end to the agonies of suspense by making the assurances of his death stronger, would add something to the anguish of his friends at home. As a reason for not writing the defendant alleges that he was about to undergo a sort of social degradation. There might, indeed, have been some force in that argument if the defendant had been compelled to adopt such a course of life, but it should be remembered that he had 1000*l.* a year at his own disposal, and might easily, by writing to his banker or his friends, have extricated himself from his new mode of life as soon as he found out that there was nothing of romance or adventure in it. Even if he had been attracted at first by the representations of Mr. Foster, and had anticipated pleasurable excitement in pursuing the emu, the kangaroo, and the dingo, he must soon have become alive to the realities of his position. Besides, assuming he had endured the wretched life at Boisdale and Dargo, whatever romance there may have been in that wild kind of life came to an end when he embarked in the business of a butcher. Nor was Roger Tichborne the kind of man to associate with bushrangers, whom he must know violated the law every day of their lives.

Gentlemen, you must judge for yourselves whether these considerations will not lead you to think that the story of the defendant is open from the outset to very grave suspicion. At the same time, be it far from me to say that the facts are impossible, because the eccentricities of the human mind are multifarious. Nevertheless, it is necessary to judge of human actions by some standard which is the result of the common experience of mankind. The counsel for the defendant referred to the instances of Bamfylde Moore Carew, a Devonshire gentleman, who gave up his fortune and joined the gipsies, and of a nobleman who became a common sailor. But we do not know whether Bamfylde Moore Carew was 'cracked' or not, as the phrase goes; nor have we any evidence as to the previous career of the nobleman whom the learned counsel for the defendant has referred to. The learned counsel suggested that Roger Tichborne was induced to leave all his friends by the example of Saint Alexis, whose history had been frequently related to him by Père Lefevre; but it was a remarkable thing that the defendant did not remember even the name of Père Lefevre. Again, the learned gentleman said Roger might have been attracted to a life of adventure by a robber's song which was sung in a play acted at Stonyhurst; but, unfortunately for this theory, the song was expurgated from the copies of the play used in the

collece. Then the learned counsel urged that Roger Tichborne, filled with remorse at having seduced his cousin, wished to go into solitude in Australia, in order to amend his life and make atonement for the past. This sounds charming; but the misfortune is, that he never meant to go to Australia at all, but took his passage for New York, with the intention of proceeding to Mexico. That does not look like an intention of leading the life of an anchorite or a hermit. When the learned counsel is reminded that his client comes back to this country with an immense amount of physical strength, he says, 'O yes, that was the effect of the pure air of the bush, and of active life.' If you speak about his intellect and his morals, the learned counsel says, 'I can easily explain to you how there has been a perfect illustration of improvement in that respect. Has he not been associating with Arthur Orton? It is true, Orton was a coarse low brute; it is true, he was a ruffian; it is true, he was a robber, and was shrewdly suspected of murder. Therefore, if you bring together the two extremes of depravity and ruffianism, combined with bodily vigour on the one hand, and enervation of body and mind produced by debauchery on the other, the result will be that you will get a perfect man.'

If this view of the case were true, I should deeply lament that we can no longer send the scum of our society to Australia. According to the learned counsel, if you have an incorrigible scoundrel, send him to Australia, and only let him find out Arthur Orton, if he can, and let him associate with him and see a little bush-ranging, and he will become a perfect character in an incredibly short space of time. With King Henry I I would say:

'Now, neighbour confines, purge you of your scum:
Have you a ruffian that will swear, drink, dance,
Revel the night, rob, murder, and commit
The oldest sins the newest kind of ways?
Be happy, he will trouble you no more.'

Let him go to Australia, and he will soon become thoroughly reclaimed and reformed. It is true that some men, sick of the conventionalities of the world, have turned hermits; that others have turned visionaries, and that some have been attracted by the love of adventure to join the Indians and other savage tribes; but in such cases there is something which accounts for and supplies a motive for a departure from the ordinary standard of human action. But here there is nothing of the kind. It seems to me that no explanation has been afforded which is at all satisfactory. The difficulty I have pointed out is one of a formidable character, which must not be overlooked, and it is of a nature which ought not to command our confidence, but rather to excite our suspicion. It is true that truth is sometimes stranger than fiction; but this is no reason why we should too hastily assume the truth of a story which, at first sight at all events, bears the appearance of being a fiction. Whether the defendant's story is a fiction it will be for you to judge after you have taken into consideration all the additional facts.

FIFTH DAY, Wednesday, February 4, 1874.

Gentlemen of the Jury,—I noticed yesterday one of the difficulties which suggest themselves to a thoughtful mind in reflecting upon the story of the defendant in reference to his life at Rio and embarkation on board the *Bella*, and it will be necessary, in consequence of those difficulties, to examine somewhat critically and minutely the general bearing of the narrative, and the details he has himself given in his various examinations as to the shipwreck, his preservation from death, his subsequent landing in Melbourne, and his life in Australia. Now, no one has been heard of belonging to the *Bella* but the defendant, if, as he alleges, he was on board the vessel. We cannot, therefore, look to any other source of information as to how the *Bella* came to founder and how he came to be saved than to his narrative. He returns after twelve years' absence and twelve years' total silence, and there is a failure on the part of those whose veracity no one can doubt to recognise him. He applies to the Court of Chancery to get over the leading technicalities which stood in his way, and it became necessary that he should give some account of himself, and as to how it was that during all those years—with his high rank, and considering the relations which had subsisted between himself and his family—he never had given them the slightest intimation of having been saved. Accordingly it was necessary that he should make an affidavit, stating with more or less minuteness what had become of him. He did so, and in the first paragraph of the affidavit he says:

'In April 1854, the ship *Bella*, Captain Birkett master, was at Rio; and learning she was bound for New York, I took my passage by the *Bella* for that city. The *Bella* left the port of Rio on the morning of the 20th of April, with myself on board, and proceeded on her voyage. To the best of my belief the crew of the *Bella*, including the captain, consisted of about seventeen persons, I being the only passenger on board. All went well until the fourth day after the *Bella* had left Rio, and was far out of sight of land, but on the morning of that day the mate reported to the captain that she had sprung a leak, and all hands were instantly set to work at the pumps, and every effort was made to save the ship, but without effect. Very shortly after the mate reported the leak it became apparent the vessel was fast filling with water, and the captain announced that all further efforts to save the ship were useless, and that all on board must instantly take to the boats.'

Now, that did not go into details, nor was it necessary that it should do so, but the parties intrusted with maintaining the rights of the child who was supposed to be the heir desired to know something more as to the particulars of this wreck, and accordingly they claimed the right they undoubtedly had to cross-examine the defendant upon the affidavit he had made. One of the subjects upon which Mr. Chapman Barber examined the defendant before Mr. Roupell was the shipwreck of the *Bella*. I must say that the defendant did not on that occasion exhibit the frankness and fairness which one would have expected from a man who was 'pressed to face a Court of Law and the world in the assertion of his right. He was asked to give a description of the shipwreck, and over and over again he replied, 'I will answer any question you put to me,' once adding, 'I hope the learned gentleman does

not want me to make a speech.' Then Mr. Chapman Barber says, 'You have in your affidavit given a long statement as to the shipwreck; can you repeat the substance of it?' 'Most undoubtedly I can,' was the answer; 'I will answer any question you put to me.' Asked again to repeat the substance of the statement, he said, 'It would be very amusing, no doubt, to you, but I am not going to do it.' Then Mr. Serjeant Ballantine interfered, and finally the defendant says, 'Well, I cannot tell you much about it, for I was not very much upon deck—the reason he alleged being that he was tipsy, and only recovered on the morning of the wreck.'

That was his first account; but afterwards he enlarged upon it in the Court of Common Pleas when under cross-examination there. Now the question whether Roger Tichborne went on board the *Bella* drunk or sober is important, in this way—that if he was sober he must, if he were living, remember what had happened on board. He would be on deck looking about him, and if any collision or any accident happened he would know all about it. But, you see, the difficulty is got rid of if it can be shown that he was drunk all the time, and that only on the morning of the wreck did he come to his senses. If you are satisfied that Roger was sober when he went on board, of course that fact would very seriously affect the credence you might otherwise be disposed to place on the defendant's narrative. The account he gives is that he and Captain Birkett had been living in a state of debauchery of the grossest possible kind. Here is what he says in his examination in Chancery on that subject:

'While at Rio did you become acquainted with the captain of a vessel there?—I did. What was his name?—Birkett. How did you become acquainted with him?—I met him at the hotel. Did you have any conversation with him as to where you were going?—Yes, I did. Did he tell you where he was going?—He did. What did he tell you?—He told me he was going to New York, that he would have to call at Kingston, Kingston, Jamaica?—Yes. Did he tell you how soon he was going to sail?—He told me he was going to sail the next day. Did you make up your mind to go with him or not?—Well, I made up my mind to go with him if I possibly could. What steps did you take in order to go with him?—I applied for my passport. Were you able to get it?—No, I did not get it. How came that to pass?—Because you have to give forty-eight hours' notice before they will grant you a passport. What happened upon that?—He detained the ship. Did you determine to go or abandon the notion of going in that ship?—Yes, I determined to go. What had you with you at that time in the way of money?—Not more than 20*l.*, I think. What had become of the sum you said you had drawn at Rio during your stay there? You say about 200*l.*?—I spent it. In what way had you spent it?—Principally in drink. There was 30*l.* out of it I paid the captain. How did you get on board?—I went on board in a boat. What condition were you in when you went on board?—I was the worse for liquor. How did you manage to get on board without a passport?—I was hidden away. After you had got on board, did you appear on deck or remain below?—No, I did not come on deck again until the day the vessel went down.'

Now I am anxious, whenever there is a conflict in evidence, to see what the defendant himself says. It is only fair and just to do so, and there you have his account of it; and I must remark that why the vessel should have been detained with the view to the obtaining of the passport and yet that no passport was procured seems to require explanation. Well, we have had Captain Oates before us, and have heard what he said as to appealing to Captain Birkett in favour of the young man in order to obtain a passage for him, although he had not money to pay for it. The defendant now wholly ignores the existence of Captain Oates. Here is what he says on being cross-examined as to his knowledge of him:—

‘Before you went on board, did you come across a person of the name of Thomas Oates?—On board where? Before you went on board the Bella?—You are speaking now of Rio Janeiro? I am speaking of Rio; that was the place the Bella sailed from first, was it not?—Yes. Before you went on board did you come across a person of the name of Thomas Oates?—I did not to my knowledge. That you swear?—That I swear. How do you mean to your knowledge?—Well, I have no knowledge or recollection of any such person. Do you recollect going on board the Bella? Did you see Mr. Oates about three days before the Bella sailed? Do you recollect seeing him about three days before the Bella sailed?—I cannot say whether I have seen him; he might have been at the hotel. I can safely say this, I did not know who he was. Had you a passport?—I had not. Did you go on board the Bella without a passport the night before she sailed?—No, I did not. Did you leave Rio without a passport?—I did. Was it a rule at Rio that no captain should take a passenger out of harbour without a passport?—It was. Did you go on board about 5 o’clock in the afternoon the day before the Bella sailed, and did you have tea or supper with the captain or Mr. Oates?—I did not. And did he go away about 9 o’clock?—He did not, because he was not there; at least, he might have gone. I was not there. You have no recollection?—I was not on board at all the night before. Had you any conversation with him and the captain as to your being without a passport?—How could I have any conversation with a man I did not know? I told you just now I did not know him. Answer my question. Had you a conversation with the captain and Mr. Oates about your being on board without a passport?—I had no conversation with Mr. Oates at all. With the captain in Mr. Oates’s presence?—I spoke with the captain, but not in Mr. Oates’s presence. Are you speaking of the previous night? I am speaking of the night before the Bella sailed?—I had no conversation with the captain that night at all. Did Mr. Oates come on board the Bella the next morning early again?—As I do not know Mr. Oates I do not see how I can answer that question. You know who I mean by Mr. Oates?—I know who you mean. You have read his evidence?—Certainly; and never read so many lies put together in all my life before, I think. You say you have never seen so many lies put together?—No, not in an affidavit. Not in an affidavit?—I will not say about an affidavit; this is not an affidavit. I thought you were reading his affidavit.

‘Do you recollect—was Birkett the name of the captain of the Bella?—He was. Do you remember Captain Birkett and Mr. Oates advising you to go down into the lazarette underneath the

deck as the Bella was being towed out of the harbour?—I went down in the lazarette. You did go down in the lazarette?—Yes. Was the object of that—did you get out of the port without the cognizance of the Government officers because you had no passport?—It was. Did Captain Birkett advise you to go there?—He did. And you mean to swear that Mr. Oates was not there, and did not hear and join in that advice?—I mean to swear that I did not know Mr. Oates at all. Was there any man who do not belong to that ship—a captain of another ship; another man, whether his name was Oates, Smith, or Johnson—was there the captain of another ship in the harbour at Rio at that time you were there?—No, there was not. No one?—Yes, there were people there. No, one not belonging to a ship of that description?—No. Did you go to the lazarette?—I did; I imagine from what you allude to it is the lazarette. A room in the afterpart of the ship, kept apart from the cargo?—No, it was not; it was a room where the stores were kept. Did the steward cover the entrance to the room with light packages, tea-chests, and the like?—I cannot say what he covered it with, I am sure. Was it covered?—I believe it was blocked up. Did Captain Birkett remain on the scuttle or trap-door, do you know?—Really I do not know. Cannot you tell me?—Considering I was inside, how could I see who was outside? I do not say you could see; you might hear or know, although you could not see?—I do not remember having heard it. Do you know whether the cabin table was put over the scuttle?—What do you call the scuttle?—The trap-door. It was not a trap-door at all. The door?—You could not put a cabin table over it. There was not a cabin table put over it?—You could not put a cabin table over it. Was the ship visited by the Government officials after you were put into the lazarette?—I suppose it would be. Did you hear the Government officials having conversations and taking a cup of coffee with the captain while you were in the lazarette?—I have no remembrance of it. Can you say it was not so?—I should not think it was so; I do not think I could have heard it. Were you aware of the Government officials going away?—That I cannot say; of course, I could hear when they had gone away afterwards—that I have no doubt of. Were there any other passengers on board the Bella except yourself?—There was not. And then I suppose the Bella was towed out and went on her voyage?—Yes. Now, you say you did not see Mr. Oates then. Did you ever see anybody who was pointed out to you or who you were told was Mr. Oates afterwards? You say you had no knowledge of him at that time. Have you since seen any person who has been pointed out to you as Mr. Oates?—I believe I have; yes. Where?—At Croydon.’

Now, here he denies all knowledge of Captain Oates; but he admitted being placed in the lazarette. Afterwards he states that he remained in the place he was put in three days and three nights. Inasmuch, however, as he could not have remained three days and nights in a place where there was no window and no light, he states afterwards that it was in a passenger’s cabin—which was then used for stores, and in which there was a berth—he was placed. If Roger Tichborne was placed in the lazarette, as Captain Oates swears he was, he would only have remained while the officers were on board, and when the vessel had got out of the harbour he would have gone on deck. If he were in a condition to go on deck he m

have known all that was going on. In the course of his re-examination the defendant was asked by his counsel whether he had a habit of drinking, and he replied he was sorry to say he had. And to the question 'What did you drink?' he gave the very sagacious answer, 'I always found it best to drink the spirit of the country wherever you are.' He had, he said, been drinking very heavily all the time he was in Rio, and he added:—

'I was two days intoxicated at an hotel, and they could not find me. When you got on board were you sober? Yes. When you got on board the Bella were you sober or drunk?—Well, I was about half way, I think. What part of the vessel did you go into?—The store-room (a cabin not being wanted) was turned into a cabin. Was it fore or aft?—Aft. The cargo was stored there. It appeared to me as if the partitions had been taken away. It had all the appearance of cabins in the saloon part. There were two skylights. I remained there until they told me to come out, I never went on deck until the morning she went down.'

Now, the statement of the defendant that he went on board drunk is entirely denied by Captain Oates, who stated that the young man to whom he had induced his friend Captain Birkett to give a passage to New York had no money to pay bills he owed in Rio, and therefore could not obtain a passport, and that in consequence he was brought on board, being then quite sober, and on the morning of sailing was placed in the lazarette while the officers were on board. It appears that Captain Birkett and Captain Oates took a liking to the young man. Whatever may have been the real character of Roger Tichborne he seems to have been extremely amiable, gentle, and pleasant in his manner, and to have won his way with every one with whom he came into social contact. Captain Oates adds that on the night before the Bella sailed he supped with Captain Birkett and the young man on board, and left for his own ship, promising to return and bid his old friend good bye in the morning; that he did return in the morning, and that Roger was placed in the lazarette, over which he placed a grating, and over the grating a table, upon which the port officers were served with coffee, and that all being ready for the sailing of the ship he left her shaking hands with Captain Birkett, whom he never saw again. This is a direct contradiction of the defendant's second statement that it was into the after-cabin he was put.

Well, but Captain Oates's statement is met by a counter-statement by the witness James Brown, otherwise Captain Brown, who says that Roger and Captain Birkett and Captain Oates—the very Captain Oates whom defendant swore he never knew—were in the habit of haunting the hotels and billiard-rooms at Rio and getting drunk together night after night; that Roger got so drunk that two nights he had to accommodate him in his bed-room, 12ft. by 10ft. in which there were two beds; that he (Brown) was on board the Bella on the morning she sailed to obtain payment of a bill for brandy, and that he saw Roger and Captains Birkett and Oates and Hoskins all come on board drunk at 6 o'clock in the morning; and, indeed, no one on board was sober; and that he prised a hole in the partition dividing the captain's cabin from the passengers' cabin, which was used as a temporary store-room, and put Roger in there, placing tea-chests and other things against the door and the aperture. Why he had made an

aperture when he had the door to put him through he did not explain. All this is positively contradicted by Captain Oates and by Captain Hoskins—as fine an old seaman as you would wish to see—who told you there was no truth in Brown's statement so far as he was concerned. Well, the Bella sailed, and here is what the defendant states in his affidavit as to the wreck. The defendant, in his affidavit on the subject, swore as follows on the subject of the wreck:—

'All went well until the fourth day after the Bella had left Rio and was far out of sight of land, but on the morning of that day the mate reported to the captain that she had sprung a leak, and all hands were instantly set to work at the pumps, and every effort was made to save the ship, but without effect. Very shortly after the mate reported the leak it became apparent that the vessel was fast filling with water, and the captain announced that all further efforts to save the ship were useless, and that all on board must instantly take to the boats. The Bella carried a long boat on deck, and two smaller boats, one of which was slung from the davits on each quarter. One of the small boats was stove in and rendered useless, but the crew succeeded in safely lowering upon the sea the long-boat and the other boat, which was the larger of the two small ones (hereinafter referred to as the second boat), and in stowing some provisions and casks of water into the boats. I and, to the best of my recollection and belief, eight of the crew got into the second boat, and the captain and, to the best of my recollection and belief, the rest of the crew got into the long boat, and immediately pushed off from the Bella, and the ship Bella soon afterwards sank.

A Juror.—He says elsewhere she had twelve feet of water in her. If there were would not the lazarette have been filled with water?

THE LORD CHIEF JUSTICE.—No doubt it would, and the captain, who was on deck, must have seen that the deck was almost level with the water. The whole of the lower part of the vessel would have been under water. That part of the story must necessarily be abandoned. He says here that the boats were ordered to be lowered. The narrative of the shipwreck divides itself into three things—the foundering of the Bella, the lowering of the boats, and the saving of the men. We stop for a moment here to ask ourselves whether this statement as to the quantity of water in the hold can possibly be true. You have had nautical evidence on the subject, which is unanimous on the point—first, that the ship could not have remained afloat with that body of water in her hold—she would have been waterlogged and unmanageable. Again, even supposing, from any sudden accident, that the ship should have made that quantity of water it must have been discovered long before. No cause has been suggested on the part of the defence which would account for so sudden an influx of water—no collision, no getting on a rock or upon a sandbank. If anything of that kind had happened it must have been observed by the defendant. It was urged by the learned counsel that from the hot climate her seams may have opened, but the owners say that she was a new vessel and was carefully examined before she left. Again, it was suggested that the bolts might have corroded, but if they had, we are told that she would have streaks which would show the fact, and which were not seen, although the vessel was painted. The ship left Rio, Captain Oates tells us, in a perfect state of seaworthiness.

If it had rested there I own I should have been

very glad; but a witness was afterwards called for a totally different purpose—namely, a gentleman who had been managing clerk to a firm of merchants at Rio, who chartered the vessel and loaded her with her cargo, and he was asked as to whether he could throw any light at all upon the cause of the *Bella* foundering, and he said that various theories had been started, such as collision, running down, sudden squalls, and so on. Then he was asked this terrible question—‘Among the rumours, did you hear a rumour that she had been scuttled?’ ‘No’ was the reply, and I wish the learned counsel had been satisfied with it. But no, he went on, and entered into minute particulars as to the nature and value of the cargo, and the amount it was insured for, leading you to believe that the vessel had been purposely sunk by the captain to enable the owners of the cargo to realize the amount of the over-insurance. The answer was an indignant denial, the witness telling us that the firm was one of 60 years’ standing, and of the highest character, and that such an imputation upon their honour and integrity was perfectly atrocious. And so it was. The very same counsel who had endeavoured to show that the opening of the seam and the corroding of the bolts had occasioned the disaster suggested to you that the ship had been scuttled—I know not at whose diabolical instigation—because there is no milder term, in my opinion, applicable to it. The suggestion was made, but I must say that a more hideous accusation—made without the slightest shadow of pretence for it—I never heard of; and you will remember it was explained that the cargo was by no means over-insured. If the learned counsel, animated by a spirit of justice, had paused for a moment before he raised that fearful accusation, and considered what the captain did, would he have made it? The vessel was 400 miles from the land. Would the captain have scuttled the ship without making some preparation for escape? Would he not, at all events, have placed masts and sails in the boats, and not have left himself to the chance of the men being able to row such a distance? However, other considerations prevailed, and this charge is preferred, which I do not say came from the defendant—I do not desire to intimate the faintest belief that it did. I do not know where it came from, but I say a more infamous charge never was preferred in a court of justice—infamous because it involves a most heinous offence on the part of those against whom it is directed, because it was made without the slightest shadow of foundation, and because it was inconsistent with the course the defence had taken up to that time.

But, whatever may have been the cause of the *Bella* making the quantity of water she did make, if it were the fact, one thing is perfectly clear from all the nautical evidence—that it would be perfectly impossible such a state of things could arise without having been long before a matter of observation. All vessels are regularly pumped, and the well is regularly sounded, and the pumps are used if necessary. The owners of this vessel tell us that Captain Birkett was an old and experienced officer, who had their entire confidence—not the vagabond which Captain Brown would represent him to be. The discipline on board their vessels was exact and regular, and it was one of the rules—which their captains regularly followed, and which every prudent captain would follow—that the well should be sounded night and morning. Now, if the well of this ship had

been sounded—and we must presume it was sounded on the morning in question—it would have been impossible, if the ship had leaked from any of the causes suggested by the learned counsel other than that of being purposely scuttled, that any large quantity of water could have existed in the well without leading to some further inquiry. But it is quite clear nothing of the kind took place; and we have the further fact that the captain was upon deck; and you will ask yourselves, was it possible that there could have been 12ft. of water in the hold, and the captain be perfectly unconscious of the impending danger? It is impossible to suppose that such a state of things could have existed. Indeed, practically the account of the defendant was given up by his counsel, and even Luie would not accept it. He said the defendant had told him the story, but he pooh-poohed it, and would not believe it, and he added that the crew he had picked up told him a different story. Then we have the account the defendant gives of the crew taking to the boats. In his original affidavit he says:—

‘The *Bella* carried a longboat on deck and two smaller boats, one of which was slung from the davits on each quarter. One of the small boats was stove in and rendered useless, but the crew succeeded in safely lowering upon the sea the longboat and the other boat, which was the larger of the two small ones, hereinafter referred to as “the second boat,” and in stowing some provisions and casks of water into the boats, I and, to the best of my recollection and belief, eight of the crew got into the second boat, and the captain and, to the best of my recollection and belief, the rest of the crew got into the longboat, and immediately pushed off from the *Bella*, and the ship *Bella* soon afterwards sunk.

‘The captain, who had in the longboat the ship’s charts, ordered that the second boat should keep in sight of the longboat, which she did for two days, but in the night of the second day a high wind and storm came on, and the boats were soon out of sight of each other, and the longboat was not again seen by those in the second boat. The man who had command of the second boat then determined to let her drift with the wind. On the morning of the fourth day after the *Bella* had sunk the crew of the second boat descried a ship in the distance, and used every means to reach her and to attract notice, and for that purpose a red flannel shirt which one of the crew of the boat wore was attached to an oar and hoisted as a signal. Ultimately a signal was made in reply, and the crew of the boat rowed to the ship, and I and the whole of the crew on board of the second boat were thus saved, after we had been three days and nights at sea in an open boat.’

You will observe that here, in his affidavit, he states that the provisions and water were placed in the boats, and he repeats that statement in his examination before Mr. Roupell, but in the Court of Common Pleas he told a very different story. He is asked:—

‘How many boats had the vessel got?—There were three. Were they all in good condition?—No, one was not. What was the matter with that one?—She had a hole in her. What were the other two boats in respect of size?—One was a large one, the other was a small one. What was done? Were the boats prepared?—Yes. What was done with them?—All things that were in it were thrown out. There was a lot of thing in the boat—I do not know what—all thrown on deck. What was done with the boat after

things were thrown out of it?—There was water and provisions put in. I don't know whether you said 'them' or 'it'?—No, it was only in one boat. Which was that?—The largest. Do you remember how the provisions were packed, or what packages they were in?—There were some bags of biscuit and some barrels of biscuit. Any other kind of provision?—Yes; there was a quantity of preserved meat in tins; preserved provisions of some kind, I cannot say what. After both boats were lowered what was done with them, which boat were you in?—I was in the smaller boat. Who was in the small boat with you?—There were eight of the crew. Any one in command?—No. Did you hear anything said between the captain and the mate?—Yes; there were a few words. Do you mean a quarrel?—Yes; it was a kind of quarrel. What was it about?—The captain wished the mate to take charge of the other boat, but he would not do so. He went into the same boat as the captain. How many were in the larger boat?—I could not tell you to one. I should think there would be six or seven. There was a less number in the larger boat on account of the provisions, being loaded with water and one thing and another. What were the orders given to the smaller boat?—Only to follow the other boat. About how long did these preparations take in getting you all into these boats after you first heard that conversation between the sailor and the captain about the vessel making water?—I do not believe more than an hour and a quarter; it might have been an hour and a half. Did you see what become of the ship, the *Bella*?—We saw her go down afterwards. How long after you got into the boats was it before she went down?—It was about 12 o'clock when she went down. What time was it when you all got into the boats?—I think it must have been a little past 11 when we left the ship. Did you continue to follow the large boat?—Yes. For how long?—We followed the boat all that day and all the next night and following day. How came your boat not to follow any more?—We followed the next day and part of the next night, when it came on very rough, and the night very dark, until part of the second night, when it came on very dark, and we lost sight of her. The next morning was the large boat in sight?—No. How had you been supplied with food and drink during the day and the night, and the next day you kept together?—We used to go up to the other boat night and morning for food and water. Do you remember how those biscuits came there? One of the sailors threw them in in small bags, just before we got into the boat; but they got so soaked with salt water that we could hardly eat them.

We see, then, that four years after he had made his affidavit, and been examined before Mr. Roupell, he alters his statement, and says that all the provisions and water were placed in the longboat, and that the other boat was left without any at all except a few biscuits. Whether he changed his statement to intensify the sufferings he had undergone, and thus account for his loss of memory, I do not know. He, however, says, in answer to Mr. Gifford, that the boat in which he was pulled up night and morning to the long boat for provisions and water as long as they remained in sight of each other. It is plain that there are *such great improbabilities in this story as to render it incredible. In the first place, when a ship is in a sinking condition, and the captain and crew take to the boats, who ever heard of all the*

food and all the water—things absolutely essential to life—being put into one boat, and those in the other boat being without, and under the necessity of pulling up night and morning to obtain the means of existence? Why the crew would have repelled the motion. The learned counsel for the defendant, as I have said, gave it up, as he did also the story of the 12ft. of water in the hold, and he argued that Arthur Orton, being a sailor, would not have told such a story. The assumption that Arthur Orton was a sailor is, although he had made three voyages in some capacity on board ship, questionable, but we know sailors have a saying as to anything that is incredible, "Tell that to the Marines," and a sailor might say, tell that story to a landsman.

But the learned counsel forgot that he had two propositions to maintain—first, that the defendant is not Arthur Orton, and next, that he is Roger Tichborne; and what, you will ask yourselves, could ever induce Roger Tichborne to invent such a story? Was it not his interest to tell the truth, to narrate the facts? Would Roger Tichborne have invented these stories and narrated them, knowing them to be false? This, I cannot help thinking, becomes a matter of serious moment when you come to weigh the evidence for and against the identity of the defendant. He was called upon properly and rightly to give an account of how he was saved from the wreck, and would you not have expected a man who had been involved in impending shipwreck, and who had been picked up from an open boat at sea, to give a plain narrative of the facts, one which, instead of being false and impossible, would have carried on its face the stamp of sincerity and truth? It is impossible not to feel the force of that reasoning. It presses upon me with very great might and cogency. The only explanation the learned counsel for the defendant, who rejects and abandons the story of his client, can offer is that the defendant's brain has suffered so much by all he has gone through, that truth and fiction became in his mind involved in one inextricable mist, and that it is just as likely he will tell you something which is the creation of his own brain as tell you the truth or give you the facts which any one whose brain is not disordered would remember. It is a fair argument of the learned counsel, if on the whole you should be of opinion that it is a solution of the difficulties which are otherwise apparently insurmountable. Here is the defendant's account of the rescue of himself and the crew:—

'Did you see anything or anybody beyond the people of your own boat?—Yes; we saw a ship in the distance, on the fourth morning.—Was anything done to attract the attention of the vessel? Yes; there was some time afterwards.—What did your boat try and do first? They pulled very hard to get up to her, but unfortunately the wind seemed to have sprung up, and instead of getting closer to her it seemed to take her further away. It was not till the third attempt we got any nearer and made a signal. A breeze of wind seemed to spring up and seemed to take her away again, and then she became becalmed again, and then we went very hard towards her and she went away again, and they were so exhausted they could hardly pull any more, but they did make a third attempt. Were you yourself able to give any assistance?—No, I did nothing, only threw the water out of the boat with a tin. Was anything else done besides pulling?—Yes, one of the sailors took his red shirt off and put it on one of the

sculls or one of the oars. What was the result of that?—The vessel hoisted a flag. What happened after that?—I suppose they rowed to her. Do you not know?—No, I do not—that is to say, I became insensible; therefore I could not say. Do you remember being taken on board the vessel?—I do not. How was it you became insensible?—Well, no, without it was over excitement. How long before you lost your senses do you remember having food or water?—It must have been very near 60 hours; not food and water—water. You said it was very hot?—Very hot. The sun out?—Yes, very hot indeed. What food had you had?—Yes, we had some biscuits. Some of the biscuits soaked with water?—Yes.

Then he was cross-examined as to the vessel he alleged had saved him:—

‘You were nearly three months on board, were you not?—I was. Did you never find out what port she hailed from?—No, I did not. Did you ever think to ask?—Well, I suppose not. Three months on board?—Yes, ill very nearly the whole time. Did you never ask where she came from?—No, I did not. Nor are you quite sure even of the name of the captain who saved you?—I am under the impression that his name is Owen Lewis or Lewis Owen. Did you inquire of the captain whereabouts he picked you up?—No, I think not. You went by the name of Tichborne?—Yes, I did. Did you live with the captain?—I did; that is, when I was able to get to table. Did you never find out from him what port he belonged to?—I did not. Was she a passenger ship?—There were passengers on board. Where from?—I do not know; very probably I inquired, but I don’t recollect. Did you make any acquaintances or friends on board the *Osprey* during the three months?—I might have made friends, but don’t recollect their names. . . . She went straight to Melbourne, did she?—No, I cannot be sure of it; I was delirious for a long time. How do you mean, for a long time?—I should think over two months. Over two months delirious?—Yes. Did you ever find out who the owners were?—No. Did you pay the captain anything?—I do not know; I have a faint recollection of giving him a cheque. He nursed you when you were delirious for two months, and you lived at the table the rest of the time. Have you no more than a faint recollection?—I have not.’

Well, having mentioned the name of the vessel and the time of her arrival at Melbourne, every inquiry was instituted at the Custom-house, Melbourne, where it was the duty of the captain to have reported the fact that he had picked up a shipwrecked crew; but no trace of an *Osprey* was found save the little Glasgow *Osprey*, of 66 tons, and of a Liverpool *Osprey* engaged in the coasting trade, and which had been wrecked before the time the defendant says he arrived at Melbourne. It was the duty of the revenue officers and Officers of Health to board every vessel arriving in the bay, and the local authorities were also active to prevent the introduction of convicts; but no tidings of the *Osprey* could be procured from any source. You had before you, too, the reporter of the *Argus*, whose duty it was to report the arrival of vessels in Hobson’s Bay, who had, indeed, a marine residence in the shape of a vessel for the purpose, and he produced the list of the *Argus*, which paper had a speciality for recording everything interesting in reference to the voyage of incoming ships, but the name of the *Osprey* does not occur in the list. One can hardly conceive it possible

that the defendant could have been three months on board the vessel which had saved him from death without knowing all about her, and you can scarcely conceive any one who had received such an inestimable benefit as the defendant states he received at the hands of the captain of the vessel by being picked up, and subsequently treated with such kindness and hospitality—even though he may have been delirious at first, yet on his recovery refraining from asking to whom he was so greatly indebted, and learning all about him in order that at the earliest opportunity he might express his great obligations in the most fitting manner. The defendant says, ‘I was deprived of the opportunity of making those inquiries, because when I went on shore the second time with the intention of seeing the captain again. I met a man who offered me service in the interior of the country. I went with him to his hotel, and so lost sight of the captain.’ But the question is, would not a man who had been saved from shipwreck and had received so much kindness, knowing that the captain was on shore, and that he must return to his vessel from the same place at which he had landed, be likely to go back to the landing-place to the man who saved him and say, ‘Captain, I am come to say ‘Good-by’—I have had an employment offered to me, and as I have no immediate means of returning to my own country, I have accepted it. But I could not go away without coming to thank you for the great kindness you have shown me.’ But he does no such thing; he goes away without making the least effort to see the man who had saved him. Is that in itself probable, or may the defendant’s account of the matter have been the result of the fact that he did not know the name of the vessel or of the captain? If the defendant at once admitted that he went to take leave of the captain, then it would be natural to say he could not have done so without asking, if he did not know before, the name of the captain and of the ship, where they had come from, and so on. Well, under these circumstances, it is natural to say it is impossible the story can be true that he could have been saved by the vessel without knowing its name, and therefore if he was saved at all the vessel must have been the *Osprey*.

Well, then, it was said on the other side, ‘Let us make a search. The arrival of a ship having shipwrecked persons on board must have been known, and there must be some record of it at Melbourne.’ They search, and no such record is found. That is a strong point in the case for the prosecution. The defendant meets it by saying that there was an *Osprey* at Melbourne at the time, that it is a mistake to suppose there was not, and he produces evidence to that effect. But then the answer is, ‘Well and good, but you don’t show us that the *Osprey* which you say was at Melbourne at the time brought a shipwrecked crew, and it is impossible that the *Osprey* could have come into Melbourne without its being known at the Custom-house and by persons whose duty it was to ascertain the name of everybody who came into port, among others the nautical reporters of the newspapers, whose business it was to get an account of any particulars of interest which might have happened to a vessel on her voyage, such as the picking up of a shipwrecked crew with a young gentleman of position and distinction among them.’ It is said, on the other hand, that the reason why it was not known was that, owing to the gold fever and the number of ships bringing multitudes of passengers eager to rush off,

goldfields, the confusion at Melbourne was so great that the staff of the Custom-house and the local police were quite inadequate to the occasion. And they bring a considerable body of evidence on the subject. It is met by another body of evidence to show that, though the gold fever did exist, it had to a great extent subsided, and that the regulations of the port might be and were, in point of fact, enforced. With respect to this matter, the first thing to be considered is whether the evidence has established to your satisfaction the presence of an Osprey in the port at the time? What consequences will flow from it is another question. You have to inquire whether, besides the Glasgow Osprey of 66 tons, there was another vessel named the Osprey in the port of Melbourne; for the defence has not only adopted the impression that the vessel which is said to have saved Roger Tichborne was named the Osprey, but has assumed it as a fact. We must, therefore, inquire whether there was any vessel called the Osprey at that time in the port of Melbourne, and we must go further and see whether the Osprey which may be so found will adapt itself to the defendant's story. He says, 'I arrived in an Osprey on or about the 24th of July. I landed the day after with the captain, and returned on board with him for the night. I landed with him a second time, and I returned with him no more. I left all the men who were wrecked with me behind me on board the vessel.' Now, it would be very hard to tie down the defendant in this matter rigorously to an exact or precise date. Because he has said the 24th of July, I don't think we are entitled to say, 'If you cannot show that at that time an Osprey arrived we must assume there was no Osprey.' That would be too hard. But, on the other hand, we must consider not only whether there was at Melbourne at the time a vessel called the Osprey, but whether it arrived about the 24th of July, and whether it agrees otherwise in substance with the story of the defendant. You may be of opinion that the evidence establishes that there was an Osprey; but you will have to consider whether the vessel arrived before or after the time the defendant landed at Melbourne, having picked up a shipwrecked crew off the coast of Brazil.

The witnesses for the defence on this part of the case are as follow. A man named Nash states that he was in Melbourne in July, 1854; that he went on board a vessel called the Osprey. The vessel was three-masted, originally bark-rigged, but she had no yard on her foremast when he saw her. She was painted black, was round-bermed, and nearer 300 than 400 tons burden. He is not certain whether he saw her name on her quarter or stern, but believes she was a vessel from Baltimore. He swears he saw the word 'Baltimore' somewhere on the vessel. It appears that he had said a moment before, 'I think I saw Baltimore on the vessel;' but now he says he is sure he saw it. Now, with respect to this we have evidence as to the vessels named Osprey in the American mercantile marine, and the evidence is very strong that there was no vessel named Osprey from Baltimore.

The next witness is a man named Goodger, who says he saw people landed as a shipwrecked crew. He represents them as dressed in what may be called 'go-ashore' clothes. They had on blue shirts and white trousers, and had with them 'horns' bags, which appeared to be full. There was with them a landsman, not dressed in naval clothes, who was presented to you as Roger Tichborne by the defendant's counsel. This looks

very like the man you want to get, except that there are some difficulties about it. In the first place, the men saved from the *Bella* had nothing but the clothes they had on; they could not be men dressed out in holiday attire, and who had got full bags. That would hardly square with the men who had been saved. Then there is the landsman. That could not be the defendant, because the defendant, as he tells us, went on shore with the captain, leaving the seven or eight other men, said to have been saved, with him behind. Therefore, that won't do. Now, this man may be telling the truth, but his evidence as to date is of the most unsatisfactory character. He gives the 24th of July as the date, and being asked whether there was anything to fix it in his memory, he cannot say there is, and when asked again, 'Why do you say it?' his answer is 'Because I do say it.' A man must have a very extraordinary memory indeed who, at such a distance of time is able to fix a particular date for an event of that kind without any special reason for it.

The next witness is a Mr. Russell, a very different man indeed. Mr. Russell is a merchant, who, in 1854, came from Sydney to Melbourne on business. He said that a small vessel called the Osprey was for sale, and he came from Sydney to look at her. Having gone on board the small Osprey, he is told there is, by an odd coincidence, another larger vessel called the Osprey close by, and curiosity induces him to look at her. He describes her as a vessel between 300 and 500 tons, does not recollect whether she had any colours flying; she had, he thinks, a round stern; and then he tells an important fact, and here he differs from other witnesses. To the best of his recollection she had a white figure-head, a bird representing the Osprey. She had three masts, she was what is generally called a three-masted schooner or Baltimore clipper. Now, that this gentleman did go on board the vessel one cannot doubt. He is asked whether it may not have been in May or June. But he says 'No,' inasmuch as he went on board the smaller Osprey, it must have been later. And he is quite right because the smaller Osprey did not arrive until the 27th of July. Therefore, we have it proved by this gentleman that there was an Osprey in the port, and this circumstance gives the defendant's story a degree of probability to which, from the other evidence, it is not entitled.

Another witness, Mr. Liardet, tells us he came to Melbourne in July, 1854, and when he arrived he saw an Osprey there. He says that on the following morning, being out in a boat belonging to his brother-in-law, who was the principal Emigration Commissioner in Melbourne, his attention was directed to a particular vessel which turned out afterwards to be the Osprey, a very fine-looking craft. He went on board, when he saw only one or two persons, and somehow or other they told him she came from South America. The men looked like sailors. No doubt this gentleman did go on board the vessel, which he was told was the Osprey, and had come from South America; but with respect to the date it turns out he is under a deep misapprehension. It was not until the ensuing year that he could have been in Melbourne at all, because he fixes the date with respect to a particular circumstance. He says he knows when it was because it was contemporaneous with the departure of Sir Charles Fitzroy from Sydney. Having about that time obtained a month's leave of absence from Sir

Charles Fitzroy, who was Governor of New South Wales, he went to Melbourne. But we have Mr. and Mrs. Marsh, who left Sydney in the same vessel as Sir Charles Fitzroy, proving a very different thing. Mr. Marsh came over as a commissioner from Sydney to the Paris Exhibition of 1855; and not only is the fact fixed in that way, but Mrs. Marsh keeps a diary, which she produces, and shows that they left Sydney on the 27th of January, 1855. It is thus proved to demonstration that Mr. Liardet could not have been in Melbourne and gone on board the Osprey in 1854.

Then there is a witness named Loskhart, who was in the service of a large firm, Lumsden and Lockhart, who had 200 ships on their books which they supplied with stores. He speaks to a square-built vessel with two or three masts, a good bit off, being pointed out to him, which was said to have picked up some shipwrecked men, and as he was going from Williamstown to Sandridge he saw certain men dressed as sailors, who were going to Melbourne, but he did not see any boxes or bags with them. He said he believed it was in June, July, or August, but on a former occasion he thought it might have been May, June, or July. Being pressed by Mr. Hawkins he could not get easily out of it. He said he knew it was some months previous to October. It was summer in that country, and it was very hot weather. The seasons are the reverse of what they are in this country. July is winter there. When asked, 'Are you sure it was one of those months?' he says, 'No, I went up the country in October, and it was fearfully hot at that time.' Afterwards he says, 'It was two months prior to the 7th of September,' and then he produced a piece of parchment which related to a solemn event in which he was interested, which happened on the 7th of September. When asked, 'You say it was two months prior to the 7th of September?' his answer is, 'You may make it two months before or two months later, as you please.' Two months before the 7th of September would take us back to the 7th of July, which would make it too early, and though I don't want to tie a man down too closely to dates, still it must not be left out of sight that what we are dealing with now is a matter of dates.

Then there is a witness named Norman, who was at Melbourne in 1854. He says he was at Sandridge in July in that year and met three American sailors, one of whom he had himself sailed with from America previously, and whom he knew again. He took boat and went on board a ship named the Osprey, a three-masted schooner, painted black. He is not certain whether she had a house on deck. 'The sailors,' he says, 'went on board the Osprey, and I went on board with them. I remained on board perhaps an hour. They went on board the Osprey to seek for their mates.' Witness says they went back as they came. 'I kept them two or three days at my house. I gave them food and some clothes, because they were destitute.' They afterwards took ship to Callao. You see, gentlemen, this is the third shipwreck. We have now three sets of Ospreys—the men who go on shore in blue Jerseys and white trousers; the sailors who were in a low condition, without bags or boxes; and now the third set, who have mates, and who are taken on shore by the last witness, men whom he feeds and clothes, and whom he knows to have embarked on board an outbound ship for Callao. This is what a Frenchman would call *embarras de richesses*—to have three Ospreys to choose from—

but Dr. Kenealy says, 'What is that to me? I throw three Ospreys at your feet. Take your choice.' Well, gentlemen, that is all very good; but when you have to select an Osprey which saved the defendant and the shipwrecked crew you must take care to select the right one, and it must bring with it a crew that corresponds with the crew which was saved with the defendant.

Then there is the witness Tizard, who says that towards the latter end of July, having arrived in the Queen of the South, he saw a three-masted schooner lying in Hobson's Bay. She must have been a bark dismantled, or with yards down. She was painted dark, either black or a dark green. She was called the Osprey. He says 'I won't be sure the name was painted on the quarter. I took her to be an American ship at the distance I was, which was about a quarter of a mile from her. We were two or three days in the bay, when she came in. I saw the Comet come alongside the Osprey; the Comet then came alongside us, and she made a statement with respect to the Osprey which fixed the fact that she was the Osprey in my recollection.' This witness speaks very positively about the name of the vessel. He says, 'I saw her name upon her somewhere I am sure. The vessel had a round stern. The name was on both quarters.' Being asked whether he could make out where she hailed from, he answers, 'I did not look.' He remembers another ship, which was there at the same time—the Royal Charter.

Then there is another witness, who was in the employ of some auctioneers at Melbourne, and who says that about September his employers received a quantity of general goods in store marked 'Osprey,' which had been brought up to Melbourne. They were American goods, consisting of lobster cases, oyster cases, preserved fruits, windows and doors for houses, &c. These goods were afterwards sold out of the warehouse of his employers. He further states that in September he was asked to subscribe for some shipwrecked sailors, and he did so. He states also that a year or two later, in 1850 or 1857, he being then in the employ of another firm called Throgmorton, a vessel called the Osprey came into Mr. Throgmorton's possession as a dismantled vessel. He represents that the vessel had evidently been originally of American build; they had taken her masts out of her and cut her down to her bulwarks, so as to convert her from a ship into a lighter, and she was used for the purpose of conveying goods from Hobson's Bay to Melbourne. When he first saw her, he says, there was no name upon her, but when she was going up the river they used to chalk on her the name 'Osprey,' and that the goods had the same name branded on them.

Then there is John Richards, a sailor on board the boat belonging to the quarantine establishment. He was in the habit of rowing the medical officer whose duty it was to see that there was no danger of infection coming into the harbour. He tells us that about the middle of 1854 he took the doctor on board a vessel which had the name 'Osprey' upon her quarter or stern. He does not remember the month. She was of foreign build, either American or Norwegian. She was about 300 tons burden, had three masts, and was painted black. With regard to her nationality, it was remarked by one of the jury that she could not have been of Norwegian build or she would not have been called the Osprey. But the supposition is that the ship was originally Swedish.

according to Luie, and that being purchased by an American firm she had her name changed from the *Helvetia* to the *Osprey*. This man Richards, who is a credible witness, fixes the date in this way. He says he got a silver-gilt cup in January, 1854, and four or five months afterwards he went alongside. But that would be too early for the arrival of the vessel which picked up the crew on the Brazilian coast.

There is one more witness, Mr. Harrison, who went out in the *Queen of the South*, and who states that he arrived on the 11th of July. In the latter part of that month he met, he says, with a ship called the *Osprey*, with three masts and white deck-house. This gentleman was, I think, rather a flippant witness, because, as he tells us, he thought it necessary to come forward in consequence of the evidence of Mr. Childers with respect to the gold fever with which he was dissatisfied. As to the ship, he says her masts were all standing, there were yards to the masts; she was rigged as a schooner, whatever might have been the state of her foremast.

Then, another witness, George Bell, says that he arrived in Melbourne in 1854, he went to certain diggings, but was back in Melbourne in the beginning of July. He came there to spend his money and enjoy himself, like some of the other witnesses. He amused himself by sailing and rowing in the bay. His attention was called to a vessel which looked like a slaver. Her name was painted on her quarters; it was the *Osprey*. He asked about her figurehead, but could not give a description of it, as he never went on board the vessel.

Then we have Captain Browne, who says there was a bark called the *Osprey* at Rio in 1853, an American vessel. Having heard that the *Bella* was lost, it occurred to him that, from the course which the *Osprey* would take sailing from a port in America to Australia, she was likely to pass over the spot where the *Bella* had foundered and to pick up the crew. A strange speculation to enter into the mind of any one, even if there had been no other evidence to detract from the credibility of his evidence.

A Juror.—Would a vessel sailing from Rio to Australia sail northwards or southwards?

The LORD CHIEF JUSTICE.—Southwards.

The Juror.—But the *Bella* was going to New York; therefore she would sail northwards.

The LORD CHIEF JUSTICE.—That is so; but I don't think the evidence of Captain Browne on this point very important. No doubt it was a very considerable difficulty in the way of the plaintiff's case in the former trial that no *Osprey* could be found. The defence was able to say 'We have searched the Custom-house at Melbourne and found no trace of an *Osprey* at that time.' But the difficulty then felt would be doubtless removed if you were satisfied that there was an *Osprey*, or more than one *Osprey* at this particular conjuncture at Melbourne. It gets rid of that very substantial difficulty with which the defendant's case had formerly to contend. But it all depends on this, whether there was an *Osprey* there concurrently with the time at which, if he landed at all after having been saved from the *Bella*, the defendant must have landed at Melbourne. It would be perfectly useless to make out that there was an *Osprey* there in the month of June or the month of September. A vessel may be expected, except under extraordinary circumstances, to perform in a given time a voyage between the spot where the *Bella* went down and

the port of Melbourne, and making allowances for the variations which will occur between one voyage and another, you will bring it within reasonable limits either as above or below the common average, which I take to be about a three months' voyage.

Let us ask ourselves whether the evidence leads to the conclusion—first, that there was an *Osprey*; and, secondly, that she was the vessel which could by possibility have saved part of the crew of the *Bella*. It is a startling fact that in the records of the Custom-house at Melbourne during the months of July and August no trace of the *Osprey* is to be found. The records refer to no vessel of that name except the little *Osprey*, a schooner of some 66 tons, which obviously could not be the vessel described by the defendant. That was a vessel of some 400 or 500 tons burden, and is it possible that she could have entered the port of Melbourne and brought with her a shipwrecked crew without the fact being known to the authorities and in some way placed on record? On behalf of the defendant it is urged that the port of Melbourne was then in such a state of confusion owing to the rush to the goldfields from all parts of the world. However, Mr. Childers, who at the period referred to was at the head of the Customs at Melbourne, says that, although people were then flocking in large numbers to the goldfields, yet the gold fever had in a considerable degree subsided, and there was nothing to prevent the local regulations concerning the registration of vessels from being carried out. Mr. Childers has been abused for coming forward as a witness; but I think that anything more uncalled for than that abuse cannot possibly be conceived. I cannot understand why, when a prosecution is instituted by the Government, a member of the Government should not be called upon to give what information he can in order to elucidate the truth. In my opinion, Mr. Childers would have been wanting in his duty, when called upon to give evidence, if he had declined from a false feeling of delicacy to come forward. However, Mr. Childers did come forward in this case, and gave us all the information in his power. His statement was corroborated by other evidence, especially by that of Mr. Marshall, who said that at the period in question there was no difficulty in obtaining either Custom-house clerks or crews to navigate vessels to England. The difficulty at one time felt had then ceased to exist. I can quite understand that, with every endeavour to carry out the local regulations, a crew of seven or eight men who had been picked up at sea and brought into the harbour might possibly escape the vigilance of the authorities and succeed in getting on shore without being noticed; and it is also possible that no mention may have been made by the captain about his having had those supernumeraries on board his ship.

But the real difficulty is with regard to the ship itself. Here is a Custom-house establishment on a large scale, and we are asked to believe that a ship of 400 and 500 tons could come into Hobson's Bay, lay there for weeks together, and altogether elude the vigilance of the authorities. That is a somewhat startling proposition to assert. Would the Custom-house officers have allowed a ship to lie there for a considerable time without going on board of her? And now I have to ask you to consider whether, even if you should not reject the evidence which tends to show that there was an *Osprey* in the port, you will not very much doubt that she came in the month of

July or August, and come to the conclusion that she must have arrived at some antecedent period. Unfortunately, the gentleman who went out to Australia to ascertain from the records of the Custom-house whether the Osprey came into Melbourne only searched the books relating to the particular period at which the defendant's Osprey is said to have arrived. I cannot help thinking that if he had looked at the books of a month or two before he might have found an Osprey corresponding to one of the Ospreys which have been mentioned in this case.

A Juror.—I cannot reconcile the date with the entry in the pocket-book that on the 3rd or 4th of July he arrived in Hobart-town.

THE LORD CHIEF JUSTICE.—That is a matter to be dealt with afterwards, when we come to consider the pocket-book. I am now merely taking the defendant's own statement, and seeing how far the evidence as to there being an Osprey in Hobson's-bay is consistent with his statement. Now, has the defendant uniformly adhered to the statement that the vessel which picked him up was the Osprey? Has he made that statement with such a degree of certainty as to enable you to attach to it the character of truth? The first time he ever mentioned the Osprey was on the occasion of his being asked to make a declaration at Sydney. On that occasion certain questions were put to him in order to enable the solicitor to draw up the declaration on the defendant's behalf. Among the questions put to him was the following:—'What was the name of the ship that picked you up?' and he answered without qualification, 'The Osprey.' 'What was the name of the captain?' He replied 'Owen,' without any hesitation. Now, when thus called upon he may either have spoken truthfully from his recollection, or he may have taken the name of the Osprey in order to cover the imposture he proposed to carry into effect. If he were not Roger Tichborne, and had not been picked up by the Osprey, yet it would be necessary, in order at some future time to make his story plausible, that he should be prepared with the name of the vessel which, according to his account, picked him up. If the story was a fiction, either he would invent a name or pitch on a ship with the name of which he had somehow or other become acquainted. At all events, he unhesitatingly gave the name of the Osprey. When afterwards he came to England, one of the earliest things he did was to go with his legal advisers to Lloyd's to ascertain particulars of any vessel called the Osprey, although when interrogated on this subject in his cross-examination in the Court of Common Pleas, he steadfastly denied that he had ever been at Lloyd's at all. In the course of his cross-examination, he was thus examined as to his denial of being at Lloyd's to inquire after the Bella, as follows:—

'How soon after your return to this country did you go down to Lloyd's?—I never went to Lloyd's to my knowledge; I do not even know where it is. Will you swear you did not go down to Lloyd's and see some of Lloyd's clerks, and look at Lloyd's books, soon after you came home?—I did not. Did you not go to Lloyd's twice over, at an interval of two or three days, announcing yourself as Sir Roger Tichborne, and making searches in Lloyd's books?—I have no knowledge of anything of the kind. Could you have done so without your knowledge?—I should think not; therefore, not knowing it, I feel sure I was not there. Will you swear on consideration?—Yes; I will swear that I never was there. Do you

really mean to swear that you did not make inquiry about the Osprey, the Bella, and other vessels?—No; probably some one went on my behalf and not myself; I have no knowledge of going. I think Mr. Holmes told me a search had been made.'

At a later period in the same day a gentleman, apparently one of the clerks from Lloyd's, was confronted with the Claimant, and the subject was resumed:—

'I think I understood you to say you denied being at Lloyd's?—Yes. And did not know where it was? [The Attorney-General here desired the clerk to stand up.] That is one of Lloyd's men; will you swear in the presence of that gentleman that you were not at Lloyd's yourself making inquiries and having the books for three or four years?—I swear I have no recollection of being there. You must recollect it?—I do not believe I ever was there. Will you swear you were not at Lloyd's for two or three hours having the books out and making examinations with him?—I certainly was not. I have never seen this gentleman to my knowledge. Will you swear you were not?—I swear I have no remembrance of being at Lloyd's. I do not know where the place is. Will you swear you were not?—Really I do not know. I have no recollection whatever.'

After a great number of similar questions and answers the examination proceeded:—

'I ask you in that gentleman's presence, did you yet yourself ask to see the books at Lloyd's relating to the Bella and the Osprey?—I did nothing of the kind. Upon your oath?—Upon my solemn oath I never did. Did Mr. Holmes in your presence?—I do not know; I cannot answer for him. In your presence?—Not in my hearing to my knowledge. Not in your hearing to your knowledge?—No; I have no recollection. Could he have asked without your knowing?—I have no recollection of being there. Will you swear he did not go with you and ask in your presence to see the books relating to the Bella and the Osprey?—I have no recollection of his doing so. Will you swear he did not?—No, I will not swear he did not. Did you ever go anywhere with Mr. Holmes to see any books relating to the Bella or the Osprey?—I do not think I ever did. Cannot you be sure?—I cannot be sure; I have no recollection of seeing anybody. You cannot be sure whether you ever went to a place to see the books about a ship in which you were wrecked and a ship which picked you up?—I do not think I did. Will you swear you did not?—No, I will not swear I did not. What made you say early in the day in positive terms that you had not been there?—Because I am under that impression now. Will you swear it?—No; I will not swear it. If that gentleman says it is so, I dare say he has a good reason for saying it is so. I have no recollection of it. Did you not go again after an interval of three or four days to the same place for the same object and stay there a considerable time?—No, I did not. Will you swear that?—I will swear I have never been twice. I am quite certain I have never been in the place twice. That I swear. I might have forgotten having gone there once. I could not forget twice.'

Next day the subject was resumed by the Attorney-General, who asked him whether he had not got at Lloyd's certain particulars he had given as to the boat of the Bella. He admitted that he had heard that the long boat was picked up 26th of April, 1854, but not the other parties

'Will you swear you did not go to Lloyd's and have it brought under your notice?—I swear I did not go to Lloyd's, and that it never was brought under my notice. The Attorney-General then handed one of Lloyd's books to the Claimant, and said, pointing out an entry marked:—Now tell me, upon your solemn oath, did you not see that, where the mark is?—Upon my solemn oath I never saw it; I never saw that book before; I acknowledged a part of the boat being picked up. Mr. Holmes told me my statement to him had been corroborated. He had got news from Rio that the boat had been picked up, &c. Will you swear that he did not read you that passage from Lloyd's books?—I swear he never did read any passage whatever out of any book at Lloyd's. Did you read any part of it?—Yes: the first part was read by Mr. Holmes. I cannot say anything about this entry, because I know nothing about it. Mr. Holmes told me he had received news that a boat of the Bella had been picked up and a barrel of biscuits found under her thwart. Will you swear that you never went to Lloyd's and saw a number of those books?—I will swear I never went to Lloyd's and saw any of those books.'

There was a good deal more cross-examination as to this, the drift of which was that in the view of the prosecution it showed the origin of the defendant's statements as to the wreck and rescue. Mr. Gardiner distinctly swore that he went down with the defendant and Mr. Holmes, his legal adviser, into the cellar at Lloyd's in which the books are carefully preserved. He said that they searched in the books of the year 1854, and found there was no Osprey except the little schooner of 36 tons, which had sailed from this country for Australia in that year, and a three-masted schooner, which could not have been the vessel referred to by the defendant. They then searched for the Bella, and ascertained all the particulars relating to her, although I think there was no entry as to her loss. The witness says they remained searching for two hours, at the expiration of which time Mr. Holmes remarked that they could not stay any longer, as Sir Roger was leaving for Paris.

Up to this time the defendant had stated without any qualification that it was the Osprey which had picked him up. On his voyage to England he told Mr. Hobson the same thing when he was talking about his rescue. But after having made this search at Lloyd's, and having found there was no entry in the books to correspond in point of the character of the ship, and in point of time with his arrival, his confidence may have been shaken in his recollection of the name of the ship. At the same time, as he had said it was the Osprey, it would be difficult altogether to abandon that position. So we next get a qualified statement, for when on his examination before Mr. Roupell he is asked what was the name of the vessel, his answer is not that it was the Osprey, but 'I am under the impression that it was the Osprey. Do you not know for certain?—No, I do not. Can you give us the name of the captain?—It was Owen Lewis or Lewis Owen.' He is asked further on the next day:—'You said yesterday you were under the impression that the name of the vessel that saved you was the Osprey. Cannot you be certain of the name of the vessel?—No, I cannot.' During the defendant's examination in chief in the Court of Common Pleas his question is put to him by Mr. Giffard:—'Now I will ask you what was, as far as you can

remember, the name of the vessel?—My own impression is that it was the Osprey. Is that your impression still?—It is. Do you remember the name of the captain?—I don't remember it distinctly, but it was either Lewis or Owen.' In cross-examination a matter of this importance is of course fully gone into. He is asked:—

'Do you recollect when you were picked up by what, I think, you are under the impression was the Osprey, what sort of a vessel was she?—She was a large vessel. Larger than the Bella (about 400 tons)?—Yes, I should think she was larger than the Bella. Where did she come from; do you know what was her port?—I do not know I am sure what her port was. Was not the Osprey of—something or other painted on her boats on deck?—Not that I recollect. You were nearly three months on board, were you not?—I was. Did you never find out what port she hailed from?—No, I did not. Did you ever think to ask?—Well, I suppose not. Three months on board?—Yes, three months on board, and ill very nearly the whole time. But you never thought to ask where she came from?—No, I did not. Nor, if I recollect right, to be quite sure even of the name of the captain who saved you?—I am still under the impression his name is what I stated. What?—Either Lewis Owen or Owen Lewis. But which went first, you do not know?—I do not. Did you learn at all, can you tell me, whereabouts she picked you up?—Whereabouts in the sea? Yes; in what latitude?—No. You never inquired of the captain whereabouts you were when you were picked up?—No, I think not. What did you do; you went then by the name of Tichborne?—Yes, I did. And were you known to be a young English gentleman?—I was, and treated as such. Did you live with the captain?—I did; that was when I was able to go to the table. Cannot you recollect for certain the name of the man with whom you lived when you were able to go to table for three months?—I told you what was his name. Did you never find out from him what port he belonged to, what he was about, or what he was doing, or where he was going to?—I did not. Was she a passenger ship or what?—There were passengers on board; yes. Could you give the name of any one of them?—No, I cannot. Where were they going, do you know?—Where were they going? Yes.—They were going to Melbourne. Where from, do you know?—No, I do not know where from. Had you not the curiosity to inquire where the passengers were going from and where they were going to?—Very probably I inquired, but I do not recollect at the present time. This was three months; Melpilla was three weeks. Did you make any acquaintances or friends on board the Osprey?—That three weeks was a great deal more than the three years or three months that I suffered there. So it seems. What I wanted to know was did you in fact make any acquaintances or friends on board the Osprey during the three months?—I did not. Not a single one?—I might have made friends, but do not recollect their names. You might or might not?—I certainly was not enemies with them, if you ask me that. I did not ask you that. I ask you whether you made friends or became intimate?—Not more than passing the time of day or the weather.'

You will see from the evidence I have read to you that that which was stated as a matter of certain knowledge at Melbourne was converted into a very qualified statement in his examination

before Mr. Roupell, and also in his examination and cross-examination in the Court of Common Pleas. But we have a fact which is not at all unimportant as shaking one's confidence in the statement of the defendant either that the Osprey picked him up or that he believed the Osprey to be the name of the vessel. In 1868 we find him entirely giving up the Osprey and taking to the Themis as the vessel which saved him. But there is a difficulty before we come to that. You may be of opinion, judging from the whole body of evidence which is before you, that there was an Osprey in the port of Melbourne—nay, you may even be of opinion that the Osprey did bring in a shipwrecked crew which she had picked up somewhere. Taking it for granted that there was an Osprey, she may have come in, but without a shipwrecked crew, or another ship may have brought in some other crew, or the Osprey may have brought a crew which was not the Bella's crew, and it is more probable, though she brought in a crew, that it was not the crew of the Bella. Again, it might be the crew, but it does not follow that therefore the defendant is Roger Tichborne.

Now, let us ask ourselves whether there is any reasonable probability of the Osprey having picked up and brought into Melbourne the shipwrecked crew of the Bella. According to the account given by the defendant, there were six or eight passengers on board. The Osprey was a vessel of 400 or 500 tons, she had a captain and officers and a crew of 17 or 18 men; so that, including the eight shipwrecked men, there were 23 or 29 souls on board. Yet from that hour to the present no person has come forward—with a single exception, which I will notice by-and-by—to say either that he belonged to the Osprey or that he was present when a portion of the Bella's crew were picked up. The story of the Tichborne case, I may say, is known in all parts of the globe, except, perhaps, among savage tribes and nations. Certainly wherever a newspaper in the English language circulates or penetrates, wherever the English language is spoken, the story of the trial must have become as familiar to men's minds as 'household words'; and yet, although this case has been pending for years, never, with one exception, has a human being come forward to say, 'I was either one of the Bella's crew,' or 'I was on board the ship which saved a portion of the Bella's crew, and therefore I will depose to the facts which are essential to the elucidation of the truth and to the securing of justice in this case.' Communications have been made without end from all parts of the world. Heaps of letters have been received on both sides as to what could be said on the subject, but no one to whose testimony the slightest value can be attached has come forward as a passenger or officer of the ship to vouch for the statement that although the Bella foundered in the ocean and lies buried in the depths of it, yet some portion of her crew were rescued and taken to Melbourne. In weighing the facts you must include the cogent and weighty fact that nobody, with one exception, has ever come forward to vouch for the truth of the story told by the defendant.

With regard to the one person who has come forward, I may say on the evidence before us, and without waiting to prejudge any evidence which may be taken elsewhere, that his testimony is false and perjured. For the purpose of this trial, after what has occurred, and after the unqualified withdrawal of the defendant's counsel of his utter disbelief in the particulars of that man's story, we

must take it that the evidence he gave was perjured evidence. If Luie's tale is false, the defendant must know it to be so. This is, indeed, too plain to admit of any reasonable doubt. Luie says:—'I was on board the vessel that picked you up; I watched over you, nursed and dressed you from day to day when you were as helpless as a child; and I remind you of the circumstance that I have crooked fingers which you used to observe when I washed you.' If the defendant sits by and allows a statement of that kind to be made on oath, you may feel that it reflects on him, and you may naturally infer that if he will sanction fraud and falsehood in another person he may not shrink from doing something of the kind himself. At the same time, it does not necessarily follow that the whole case is a tissue of falsehood and fraud.

We now come to another part of the case. In July, 1868, a man named Smith, who had been on board a ship called the Themis, which arrived in Hobson's Bay in July, 1854, made some communication to the owners of the vessel with reference to having picked up a shipwrecked crew, and this induced the owners of the Themis to communicate by telegraph with Mr. Holmes, who at that time was attorney for the defendant. He immediately sent down an agent named Bridger to search the books of the firm, Messrs. de Wolfe, to look at the log of the Themis, and to ascertain whether that vessel had picked up any shipwrecked crew. The defendant goes down himself, and writes to Mr. Rous saying he was now satisfied that the Themis was the ship that saved him. He goes forthwith to Liverpool and with Mr. Bridger examines the log of the Themis. For a time they seem to have entertained the notion that the circumstances connected with that ship would square with the representations of the defendant as to his having been brought into Melbourne, but when the log-book is examined they cannot find any entry about a crew being picked up. Now, according to the evidence of all nautical men, such a circumstance would be certain to be entered in the log, because when any ship's crew is picked up the owners of the vessel picking them up become entitled to the cost of maintaining such sailors while on board the vessel. Well, although there was no such entry in the log of the Themis, another entry was discovered which it was thought might suit. It appears that when the Themis arrived at Melbourne she had on board as a passenger a young man who in point of age and appearance might have agreed with Roger Tichborne. Upon this fact Mr. Bridger and the defendant appear to have fastened. The defendant saw the owner, and in the course of a conversation with him gave him a most remarkably accurate description of the Themis and of the office of the firm in Melbourne. It turns out, however, that the young man supposed to have been shipwrecked was an ordinary passenger after all, and the only passenger the ship carried to Melbourne. And now comes the curious part of the story. As long as the defendant was going upon the statement that the Themis was the vessel, and that he was the passenger who was taken by the captain to the office of the agents of the ship at Melbourne, he professed to have a perfect knowledge of where that office was; but he abandoned the Themis altogether, and between the time of his examination before Mr. Roupell and his examination in the Court of Common Pleas he reverts to the former statement relating to the Osprey, and then we have

singular change and adaptation of his recollection to the new state of circumstances.

When he reverts to the Osprey he is in total ignorance of what the place was to which the captain took him. He believed the captain took him to the custom-house, and afterwards to another place, but he did not know what place it was. That, gentlemen, is a remarkable circumstance. Another remarkable circumstance is that when the defendant first mentioned the Osprey he did not say anything about her being an American ship, but after the search at Lloyd's, when an English Osprey could not be found to meet the requirements of the case, the suggestion was first made that the Osprey was an American ship. Now, some of his witnesses say it was an American vessel, and if we could have found an American vessel corresponding with this Osprey we should have been relieved of much difficulty. But the general register kept at Washington of all the ships in the American mercantile marine has been searched by Mr. Purcell, who tells us he could find no vessel called the Osprey with the exception of the New Bedford Osprey, which could not have been the Osprey which arrived at Melbourne, because she never went there, and

because it is known that in 1854 she was in other parts of the world. In addition to that we happen to know that pains have been taken on the part of the defence to support the evidence of Luie, and to ascertain whether no trace could be found of an American Osprey other than the New Bedford Osprey, which clearly would not do. These endeavours also failed. I am quite sure that indefatigable gentleman, Mr. Whalley—who has taken such trouble in his behalf, and who has been so anxious to support Luie—if he had discovered any trace of an American Osprey which would fit in the case, he would at once have told us of it. If, however, the Osprey falls to the ground the case of the defendant does not necessarily fall with it, because he may have been taken to Melbourne by another ship, though there is still the difficulty that it is in the highest degree improbable that he should not be able to state the name of the captain. On Friday I shall enter upon a very interesting subject—the life of the defendant in Australia.

A Juror.—Did not the Baltimore Osprey and the New Bedford Osprey turn out to be the same ship?

The LORD CHIEF JUSTICE.—Yes.

SIXTH DAY. *Friday, February 6, 1874.*

Gentlemen,—It has occurred to me that in my anxiety not to detain you beyond the appointed hour on Wednesday I did not lay before you as fully as I ought to have done the different views which might be taken in reference to the possibility of an Osprey having brought a shipwrecked crew to Hobson's Bay at the time stated by the defendant. I shall endeavour very succinctly to place before you the different speculations which have occurred to my mind on the subject. In the first place it is possible that there may at the time named have been an Osprey in Hobson's Bay, and it is possible that that Osprey may have brought in a shipwrecked crew, and yet that they may not have been the crew of the Bella. When you consider the circumstances under which the long-boat of the Bella was discovered—bottom upwards—it will be for you to say whether the inference is not that they could not have been the crew of the Bella. It has been told us by nautical authorities that the circumstances warrant the conclusion that the Bella went down in a sudden squall. That, however, again, is mere matter of speculation. But it is possible that the Osprey brought in a portion of the crew of the Bella, picked up out of the smaller boat, and yet that Roger Tichborne was not among them. The probability would be the other way. We are told that the ordinary course, and the one likely to be pursued, would be that the captain would take his passenger with him; and certainly it would strike one that when there were two boats the passenger would naturally desire to cling to the captain, who was in the large boat, having with him charts and compass. Here, again, we are dealing in probability; but, although it is hardly probable that, under the circumstance, Roger would be in the second and smaller boat, yet it is a possible thing, and we ought to look at the whole case in all its possible bearings.

But even if Roger Tichborne was brought into Melbourne, it does not necessarily follow that the defendant is Roger Tichborne. No doubt it would relieve the case of the defendant from a vast amount of difficulty which now attaches to it, but

it would leave the other and ascertained and admitted facts of the case standing and untouched. We must deal with these possibilities simply as matters to be considered in the cause, and not as being conclusive one way or the other. You may be of opinion that the weight of probability is against the proposition that the crew of the Bella's second boat was ever picked up at all; still less that it was picked up by the Osprey, and still less that Roger Tichborne was among them. The weight of probability may be all one way, but so long as there is a possibility the other way, that possibility becomes an element for consideration in the cause. The statement of the defendant may be perfectly true or it may be perfectly false; and when I advert to those speculative matters, all I mean is that they are things which, in addition to the facts of the case, are to be taken into account, but certainly not as being conclusive on either side.

Suppose you had come to the conclusion that Roger Tichborne had been brought into Melbourne, but that all the other facts of the case preponderated against the defendant. We should have, as sensible men, to seek some solution of the difficulty presented by the fact of the disappearance of Roger Tichborne. He may have died and been borne to an obscure and unknown grave. It may be asked, How did the defendant come to put forward the name of the Osprey as the vessel that saved him? If the statement were true, it was natural that he should have known and stated the fact. If, on the other hand, it was not true, then the defendant would know it would never do to say he did not know the name of the vessel that saved him; he would have to seek for some vessel. Suppose that in his numerous wanderings he had fallen in with some of the Osprey's crew. Suppose that some of the Bella's or of the Osprey's crews did escape to the diggings, the story of the loss of the Bella and the single passenger would no doubt be often told in the tents of the diggers, or around the camp fires of the stock-drivers, of which we have heard so much in the course of the defence; and if there should be a man in those

parties disposed to take up those facts thus brought to his knowledge, and set himself up as the lost passenger, that is just a conjecture which may be taken by you into consideration. In like manner Roger Tichborne may have landed, and then, years afterwards, finding that Roger Tichborne never comes forward, some other person who had learnt the facts and concluded that Roger Tichborne, not having been heard of during all those years, must be dead, may have been led to assume his name. I am merely putting these things as possibilities, to which you should look if you are of opinion that Roger Tichborne landed, but that the story told by the defendant cannot be true.

There is one other thing which I must mention before quitting the subject of the Osprey. I have alluded to one or two difficulties arising from the inability of the defendant to tell us things connected with the Bella and the Osprey which we might have expected him to have known. I pointed out the difficulty arising from his want of knowledge as to the name of the ship or captain. But another difficulty arises from his want of knowledge to which your attention should be directed. One would naturally have expected that the defendant, if he were Roger Richborne, would have been able to give some account of his companions in misfortune who were saved from the shipwreck, who suffered privation with him in the open boat, and who were saved with him. It would have been absurd to suppose that a passenger who had been only three days in a ship, especially if he were, as described, in a condition of drunkenness during the whole of that time, would know the names of the crew; but it becomes a very different thing when the man is launched in an open boat with seven or eight men and goes through peril and suffering with them. He would then be thrown into their close company, and have heard their names as they spoke to each other; and you would naturally expect that he would take an interest in them, have talked with them, and have learnt the names by which they were called; and he might in the same way have taken an interest in the men after they were picked up, and have made inquiries and learnt who they were, and more especially if he was three months with them on board the Osprey. Would he not have inquired who they were—whether they were family men, and whether they had the means of communicating with those who were so deeply interested in their fate and safety? You would therefore expect that the defendant would have been able to tell you, if not the names of all, at least the names of one or two of the persons who were associated with him in such strange and adventurous circumstances.

The defendant may have felt that, for he professed to know the names at one time. He not only stated he did to Mr. Hopkins, but he did so when under examination upon oath. It appears that there was a young man named Evans on board who was apprenticed, but whose name was not among the list of the crew, and he was a relative of a Mr. Killey, who was part owner of the vessel. When Mr. Killey heard of the claim made by the defendant, and the assertion that some of the crew of the Bella were saved, he naturally inquired of Mr. Hopkins whether his kinsman was among those who were picked up, and Mr. Hopkins wrote to him a letter, which was evidently dictated by the defendant. Before I read the letter let me call your attention to the evi-

dence of the defendant on the subject. He is asked:—

‘During any portion of the year 1867, what information had you as to any of the crew of the Bella being saved?—There was a report, I believe, of three or four of them saved. . . . Did you hear their names?—I believe I did at the time. At the time? Do you remember them?—No, I do not. Did you make no note of them?—I hardly ever made a note in my life. You told us you kept a diary from 1852?—Yes, that is so; I am speaking of since I have been in England. Cannot you tell us the names, how many the reports referred to, and what names they were—people who, according to you, were wrecked with you, and were three days and nights in an open boat, who were suffering the extremities of danger in the Atlantic, and three months in another vessel going to Australia—to Melbourne? Do you not remember the names?—I do not remember the name of one of them. Had you not the curiosity to try to find out about them, what their names were?—Yes, I have seen their names since. Can you give me their names?—No, I cannot. Cannot you give me one name?—I could not give you half a one; I have no recollection; I do not recollect any one name, or a portion of a name. The reports you say you had heard were that three or four were saved?—Yes, I have an impression that was so. That is your impression. Was it so small a matter, the saving of a part of the crew of the Bella, that you had been shipwrecked with, that you can only give me the impression?—I do not remember what happened three or four years ago. Can you tell me any single fragment of a name, any one name now?—I dare say I could if I collected my thoughts together. Just collect your thoughts, and give me one name?—No, I cannot think of a name just when I want it. Just give me one name?—I will give you the whole of the names to-morrow if you want them. We will have them, please, to-morrow, if you will be so good as to furnish me with the names?—It is very easy to get them.

‘How will you be able to give me the names to-morrow, if you cannot give me them now?—I will cause inquiries to be made to ascertain what the names were. From whom shall you ascertain that?—From my solicitors, of course. The solicitors know it, do they?—I should think so. You should think so? Have you any doubt that they know?—No, I have no doubt whatever. How long do you think they have known?—What is it I am asked now? How long do you think your solicitors have known the names of the survivors of the Bella—some months?—I did not say the survivors; I thought you said the crew. Well, the crew? The survivors are what I want—the names of the survivors. People who were down below at the bottom of the Atlantic; that is not of the slightest use?—Not at all. Do you know the names of any of the survivors?—I cannot say that I do. Did you ever?—Did I ever? Yes, of course I did. The names of the survivors?—Yes. When did you forget them?—I forget them now. Do you think you will remember them by to-morrow?—Very probably I should—some of them. I will ask you. Perhaps you will write them down, and let me have them?—I will try my best endeavours. Just see now if you can give me one or two names, and you can give me the rest to-morrow?—I am trying if I can think of them. At times I can think of them easy enough. I cannot now. . . . I think I can give you the name of

one—Hivvins. What did you say?—I am not aware I said anything. It is suggested to me I did not repeat it correctly. What name did you give me?—Evans? Did you ever give anyone this name? Do you recollect a man of the name of Pebbles?—I believe I did give that as one of the names. As one of the names of the survivors, did you?—I think so. To Mr. Hopkins?—I do not know whether I gave it to Mr. Hopkins or not. You gave it, at all events. Was he the second mate and carpenter?—He was the carpenter, I think. Pebbles second mate and carpenter. Do you recollect that Pebbles was the second mate of the Bella, and was one of the survivors saved with you?—I cannot say for a certainty; I fancy that is one of the names.

Now here is the letter which Mr. Hopkins wrote to Mr. Killey from information given to him by the defendant:—

Alresford, 10th Feb., 1867.

‘Dear Sir,—I will gladly give you all the information I can, in reply to your note of inquiry, and as Sir Roger Charles Tichborne is at present a guest in my house, I am enabled to do so.

‘The wreck of the Bella took place four days after the ship sailed from Rio. In this time Sir Roger could not, of course, be acquainted with the names of the crew, and can only speak of those who were in the same boat with him after the wreck. He names the following (you must, of course, make allowance for my spelling the names):—

‘Sheers, Williams, Dobbin, Pebbles, second mate and carpenter; Yankee—nickname, an American; a native of Valparaiso; a young man who was known as Yorky—a nickname, as he was a Yorkshireman, aged 16 or 17.

‘There was also another man whose name Sir Roger does not remember—a man about 30 years of age. Sir Roger does not remember the name of Evans at all. On the arrival of the Osprey at Melbourne Sir Roger went on shore with the captain, and returned to sleep on the boat. The next day he went ashore and tried to get a passage to England, and failed. He slept that night on board. All this time the men named (who had worked in the navigation of the ship) still remained in the ship. Sir Roger went ashore the next day, and while admiring some horses in a horse market attracted the attention of the owner, a Mr. W. Foster, who, inquiring as to his knowledge of horses, offered to take him into his service, to go with him to Gippsland. This Sir Roger accepted, and slept that night at Mrs. Hickey’s hotel, the Rocksburgh Castle, Elizabeth-street, Melbourne, and at daylight the next day started with Mr. Foster for Gippsland—not even seeing and taking leave of the captain before he left. I give you these minute particulars that you may see how it was Sir Roger saw and knew no more of the persons named who escaped with him in the boat. People were wild as to the gold diggings at the time the Osprey arrived at Melbourne. How glad I should be to give you such tidings as would bring comfort to the mother of Evans, and rest assured it would be a source of much gratification to Sir Roger could he give more information that would enable you to pursue the inquiry further.

‘Pray do not hesitate to write to me again and again. I am most anxious to show you I fully reciprocate the kind consideration with which you treated my application to you in 1854.—I am,
dear Sir, yours truly,

‘EDWARD HOPKINS.’

So that he gave four names to Mr. Hopkins—Sheers, Williams, Dobbin, and Pebbles—but did not remember the name of Evans at all; but, when pressed in cross-examination, he said, ‘I think I can give you one name.’ ‘What is that?’ said the Solicitor-General, and the answer was ‘Evans.’ Now, that is a very remarkable fact. Mr. Hopkins states in his letter, ‘Sir Roger does not remember the name of Evans,’ but afterwards, under cross-examination, he gave that name as one he remembered. He is asked, ‘How came you to remember that name? Is it in consequence of the letter of Mr. Killey?’ and he replied, ‘It may have been, although I was not conscious that that was the way it was brought to my mind; but it may be so.’

A Juror.—The letter mentions the nickname Yorky. That was also mentioned by one of the witnesses.

The LORD CHIEF JUSTICE.—That fact had escaped me.

The Juror.—I think it was mentioned by Luie.

The LORD CHIEF JUSTICE.—The evidence ranges over so vast an area that it is impossible to bear it all in mind. However, the defendant mentions four names through Mr. Hopkins. One was Pebbles, another form of Peebles, and Pebbles was second mate of the Middleton, in which ship Arthur Orton sailed. The defendant also spoke of one of the crew as being named Owen Lewis, or Lewis Owen, and Owen Lewis was also one of the crew of the Middleton. Now, on the assumption that Roger Tichborne was brought into Melbourne an attempt has been made to show that he gave a cheque to the captain on Glyn’s bank for between 17*l.* and 18*l.* Let us see what the defendant said on the subject. He is asked:—

‘Did the captain ask you for anything?—I have some faint recollection of giving him a cheque. I cannot say positively I did so. If I did it was on blank paper. You had no money with you?—I had no money with me and no cheque; therefore if I gave him one it was on blank paper. You have a faint recollection?—Yes. Did he ask you for it?—I cannot say whether he did or not. You lived at his table, and he nursed you when you were delirious for two months, and you lived at his table the rest of the time. Have you not more than a faint recollection whether you gave them anything?—I have not. Whom could the cheque have been drawn on?—It would have been drawn on Glyn’s. That would have turned up, I suppose? Mr. Serjeant Ballantine.—That we cannot have. The Solicitor-General.—You would have had it supplied to you. In your banker’s book with Glyn’s you would have seen whether it was or was not?—I do not know. When the cheque arrived there were no funds. They had all been taken out. Did you find out you gave the cheque, and it had been dishonoured?—I did not find out at all. What do you mean by saying when the cheque arrived here all the funds had been taken out?—Simply as Mr. Hopkins told me. Excuse me. Mr. Serjeant Ballantine.—You stopped him. The Solicitor-General.—What cheque? Mr. Serjeant Ballantine.—There is only one. The witness.—I am speaking of one cheque that may have been given to the captain. I told you I have a faint recollection of giving him a cheque. Mr. Hopkins told you?—Mr. Hopkins told me during my absence a cheque came to Glyn’s. The money had been taken from Glyn’s before this arrived, and they asked to have the cheque left for a short time. The cheque was sent down to Hampshire. It was acknowledged to be my etc

nature by Mr. Greenwood, whom Mr. Hopkins sent it to. It was returned to Mr. Hopkins and returned to Glyn's. Glyn's have got it?—I cannot tell. I tell you what Mr. Hopkins told me. That you think is the cheque drawn for the captain?—It must have been the cheque. There is no other cheque. Where did you draw the cheque?—It must have been on board the ship. Before you left?—Before I left. Having a faint recollection, cannot you tell me positively whether you did or not?—No, I cannot. If I did you would immediately ask me to swear to it, and I cannot. Can you tell me what you drew it for?—The only thing I could have drawn a cheque for would have been for such articles that I required to wear, that we took from the ship's stores, and what grog I had. Did you not pay the captain anything for his medical care and provisions?—No, I did not. You had nothing except what you drew from the ship's stores when you went away?—I had not. I understood you to say so?—I never said anything of the kind. You asked me what would it have been for. My answer was it would have been for clothes, which I had taken from the ship's stores, and any one I might have had. That is exactly what I supposed.—You need not put it down that I said so. Did you pay the captain anything for what he had supplied you with?—What he had supplied me with? You lived at his table?—If I gave him the cheque. I am not sure whether I did or not. Can you recollect the amount?—No, I cannot. Are you asking can I myself? Yes?—No, I do not. You do not recollect at all about the amount?—I know the amount. Mr. Hopkins told me. I do not understand that to be the question. You may tell me what you say the cheque is, so that we can follow that cheque. Mr. Giffard.—This is what Mr. Hopkins told him. The Solicitor-General.—What did Mr. Hopkins say the cheque was?—Between 17*l.* and 18*l.*, I think. For three months? Mr. Giffard.—This is what Mr. Hopkins told him.

Now, it is absurd to suppose that any cheque was drawn by Roger Tichborne at Melbourne and sent home, and that that cheque came to the knowledge of Mr. Hopkins. Why, the very fact that Roger drew a cheque at Melbourne would have put an end to the notion that Roger had perished in the *Bella*. If that cheque had come to Glyn's, and had been sent on to Mr. Hopkins, what would he have done? Why, he would have rung his bell and ordered his fastest horse to be put to his lightest trap. He would hardly have stopped to put on his hat before he was on the road driving his quickest to Tichborne-house, into which he would have rushed in a state of excitement, crying out 'Hurrah!' Here is great news for you. Roger is not dead; he is alive. Here is a cheque of his which proves the fact, and the father and mother would have put off their mourning, and the country round would have rejoiced that the heir of Tichborne had been rescued and was alive. Again, would not the mother, who by her persistent belief in her son being alive, constantly opened the wound in the father's breast that was healing—would she not have mentioned in the advertisements she had inserted in the English and Australian newspapers that Roger had signed a cheque at Melbourne? Would she not have communicated the fact to Mr. Cubitt and Mr. Gibbes in her letters? Why, the evidence would have been decisive. But the thing speaks for itself. We can only suppose that the cheque, which Mr. Hopkins thought important,

was one of three things—either that it was a cheque which Roger had drawn before he had embarked on board the *Bella*, or a cheque of some other date drawn by Roger Tichborne, and which Mr. Hopkins produced for the purpose of showing that the handwriting of the defendant was like the handwriting of Roger; or it was a cheque of the defendant's own, which Mr. Hopkins produced in order to induce Mrs. Greenwood to think that the signatures of the defendant and Roger Tichborne were alike. It is unnecessary to say more than that the whole thing broke down entirely, and it was absurd to attempt to establish it.

Then a witness is called who says that the defendant put his name as an attesting witness to a receipt from him at Castlemaine in Australia, where the witness, a man named Summers, bought a grey mare for 30*l.* or 40*l.*, and as the man he bought it of was, as he said, 'next to a bush-ranger, and one of a bad lot,' Summers wished to have the receipt for the amount attested. Castro, whom he recognised as the defendant, attested it in the name of R. C. T. Tichborne, or R. C. D. Tichborne, he could not tell which. Castro, he says, was more or less intoxicated. Summers asked him how many more names he had to go by, to which the defendant made no reply. This man represents that the defendant, who at that time had sunk his name and was going by the name of Castro, in a moment of forgetfulness, arising from his being drunk, signed the name of Tichborne, a thing which the defendant himself does not profess ever to have done in all his dealings with the people he was brought in contact with in Australia. There is an improbability in the statement, and there is a still greater inherent improbability in it when you come to look at it. The man represents that the defendant, in the year 1857 or 1858, signed the name with three initials—'R. C. T.' or 'R. C. D.' Now, Roger never could have signed 'R. C. D.' because he never had a third Christian name, and at this time he did not know that his father had assumed the name of Doughty, and that he was entitled by royal license to put the name of Doughty before the name of Tichborne. In addition to that, when we find him beginning his correspondence with Lady Tichborne he never adds the third name, showing plainly that at that time he was not aware, as he could not possibly have been, that the third name had been assumed. This man says he had the receipt, and no doubt it would have been a very valuable document if it could have been produced. He says that he told a farmer named Mundy at Prior's Dean that he possessed such a receipt, and, in fact, showed it to him. Mr. Mundy, evidently a very respectable man, is called, and says, 'He told me he had this receipt, and promised to show it to me, but never did.' It appeared that Mr. Mundy attached so little importance to it that it never occurred to him to communicate to Sir James or Lady Tichborne a word about this receipt, which, if it existed, would tend to show them that their son Roger was alive. What makes the case very suspicious indeed is this—the witness must have been sensible of its importance from the fact of his mentioning it to Mr. Mundy, and yet he says his wife, with his consent, deliberately destroyed the document by burning it.

Now, when Roger Tichborne landed at Melbourne we should have expected him at once to seek a passage to England. The scheme which he had conceived of foreign travel had been tirely frustrated by the disaster to the *Bella*

instead of being on his way to Mexico and thence to India he found himself in a part of the world which probably would have but limited attractions for him. The first thing to do under these circumstances would be to obtain a passage to England. The defendant, if he really be Roger Tichborne, of course did so. If he is not Roger Tichborne, being that which Roger naturally would have done, he tells us that he did it. He says he went with the captain first to the custom-house, and then to another establishment, where the captain endeavoured to obtain a passage for him, but no passage could be got, he says, because the gold mania prevailed, and crews could not be kept. In his affidavit made in the year 1863 he says:—

‘On the first day after I first landed at Melbourne I was strolling about the town, and went into a yard called Row’s-yard, situate in Burke-street, Melbourne, where a large number of horses were being sold. I was much attracted by what was being done, and a person, whom I afterwards discovered to be Mr. William Foster, an extensive stock-keeper of Gippsland, spoke to me, and, after ascertaining that I was a good rider, offered to take me with him to Gippsland, where there was good hunting and shooting. I accepted such offer, and for family reasons I assumed the name of Thomas Castro, after that of a friend named Don Tomas Castro (whose acquaintance I had made at Melipilla, in Chili), and I continued to use and was known in Australia by the name of Thomas Castro until shortly prior to my return to England, as hereinafter mentioned. I immediately afterwards left Melbourne with Mr. Foster and his horses, and proceeded to Mr. Foster’s station at Boisdale, in Gippsland, on the Avon River, nearly 300 miles from Melbourne, where I remained about 19 months. Mr. Foster then gave me charge of the Dargo station, in the Australian Alps, about 115 miles further inland, where I remained for about 18 months, and then returned to Boisdale, where, after staying for about three months, I travelled about, and remained at various places, as in the 38th paragraph of my said bill mentioned.’ The account he gave in his examination in the year 1871 was as follows:—

‘I recollect nothing of any report being made at the Custom-house, nor what became of the other eight, nor the captain. I left Melbourne the day after, and my departure was unknown to the captain. While walking in the streets of the town I went into one of the horseyards in Burke-street. I saw a horse kicking in the yard, and a person standing near, supposing I was a new arrival, asked me if I could ride the horse. I said I thought I could, and he then asked me if I would go with him to Gippsland. His name, I learnt, was William Foster. He said that if I would go with him I should have nothing to do but to ride about after stock. I could ride very well at the time, and I accepted his offer. I changed my name, and assumed that of De Castro.’

Asked why he took that name he said:—

‘I cannot say why I adopted that name, except that I had known De Castro when I was at Chili. I accompanied Foster from the horse-yard to the hotel at which he was staying. It was called the Limerick Castle Hotel, and was situate in Elizabeth-street, and was kept by a Mr. Hickey. I did not know at that time what ‘riding after stock’ meant, but I subsequently learnt by experience. Mr. Foster also told me, as an inducement to go with him, that there was plenty of hunting and shooting at ‘the station’ and that it

would be a very merry life to read. I have been to the Limerick Hotel since that time. I don’t remember Foster supplying me with anything; before we started from Melbourne to Gippsland, which was at five o’clock the next morning. We were accompanied by the men he brought with him.’

You will observe that the statement to Mr. Marshall is altogether abandoned. Mr. Marshall said he asked the defendant whether he knew his office at Melbourne, and drew a plan of the place, and the defendant put his finger on the position of the office into which he said he went to inquire after a ship to take him to England. At the last trial, however, he said he went with the captain of the Osprey to a place he understood to be the Custom-house, and to some other place of which he had no recollection whatever.

We come next to the narrative of the defendant with regard to what he had been doing after he landed at Melbourne. From the time of the wreck, it would take a ship to sail from the coast of Brazil to Melbourne about three months, and he says he arrived there on or about the 24th of July. From that time to his coming forward to make his claim was a period which it was necessary for him to account for; and his account is that on the second day after the Osprey cast anchor he was ashore, and while the captain went about his business the defendant says he strolled into an auction yard where there was a sale of horses. One of the animals plunged and ‘bucked,’ as it is called, and attracted the attention of the bystanders. A stranger accosted him and asked him if he could ride that horse. He said he could, and the stranger offered to take him into his service as a stock-driver. He inquired what that was, and hearing that it was a very jolly life—little or nothing to do but ride after the cattle and keep them in the run—and that occasionally there was hunting and shooting to be had, the defendant asked what was the wages, and was told 30s. a week. He accepted the terms and went on the next morning with the stranger, a Mr. Foster, to a station called Boisdale, 300 miles up the country, and he says that he took the name of Thomas Castro, which was suggested to him by his knowledge of a family of that name in Chili. This statement he afterwards repeated in his examination before Mr. Roupell. So that you see, according to his account, he is attracted by the description of the occupation in which he was to be engaged, and accepts the service at 30s. per week. Then, he says they started the next morning, and rode the journey, which Mr. Gibbs tells us was upwards of 300 miles. He arrived at Boisdale, and enters upon the life of stock-keeping, driving cattle, and occasionally slaughtering. We must observe very carefully the dates which he gives us to fix the period of his service with Foster. In the affidavit he gives this account:—

‘I immediately afterwards left Melbourne with Mr. Foster and his horses, and proceeded to Mr. Foster’s station at Boisdale, in Gippsland, on the Avon river, nearly 300 miles from Melbourne, where I remained 19 months. Mr. Foster gave me charge of the Dargo station, on the Australian Alps, about 115 miles further inland, where I remained for about 18 months, and then returned to Boisdale, when, after staying for about three months, I travelled about, and remained at various places.’

Now these would give a period of 40 months, or three years and four months. The engagement

with Foster, he says, was at the end of July, so that this would give us from July, 1854, to the month of November, 1857. In his examination in chief his statement coincides with the affidavit. In his cross-examination, some little time after, he varies as to the period, stating that he was at Boisdale 12 months, at Dargo 15 or 16 months, and finally at Boisdale again for two or three months; so that that would give us a period of 30 months, against 40 as set forth in the affidavit, and you will find that that is not altogether immaterial.

Now, during this period of service at Boisdale and Dargo, he tells us that he formed an acquaintance with a person whom I must now introduce to your notice as being a very important person in the development of this drama. He is a personage whom it is difficult to follow and somewhat difficult to fix. It is a large and stalwart form, no doubt, but one that often assumes occasionally a very shadowy appearance. It sometimes seems to divide itself into two and unites together again, and again severs itself and again reunites. At times the form seems to blend itself with that of the defendant and again to separate from him; so that at last one is almost bewildered to decide whether it is two men or one; and I must ask you carefully to watch the details of the history of the man whom I am about to introduce and I need not say that that person is Arthur Orton. Not that I am going into the question whether the defendant is Arthur Orton, because things are not ripe for that. I am not in a condition just at present to put before you all the facts which it is necessary to take into account in dealing with that highly important question. But to understand the story of the defendant as Castro, it is necessary that you should have before you the outline of the history of Arthur Orton.

Arthur Orton is known as the son of old George Orton, a shipping butcher of High-street, Wapping, and according to the witnesses for the defence I have been led to believe that old George Orton was a thoroughly respectable man who enjoyed the esteem of his neighbours. But one, and only one, of the witnesses called for the defence spoke of him as an unprincipled man who got into debt and did not pay what he owed. It is not very material in this case, except that sometimes an unworthy example set by a father is followed by the son. Old George Orton lived for many years in the High-street, and had a numerous family, and it may be necessary to mention the names of them in the course of the inquiry. He had eight sons and four daughters, making a family of 12, all of whom were born within the years 1819 and 1834; so that old Mrs. Orton blessed her husband with as numerous a progeny in as short a space of time as a husband and father could well desire. The dates of the births of the Orton family are as follows:—Thomas, August 27, 1819; Elizabeth (Mrs. Captain Jury), March 16, 1821; Charles, June 5, 1822; George (captain of a ship in the Eastern seas), September 16, 1823; Margaret Ann (the other Mrs. Jury), October 9, 1824; Mary Ann (Mrs. Tredgett), June 24, 1825; William ('Gentleman Orton'), March 21, 1827; Robert (who died away, and of whom we have heard nothing, but as to whose career I should like to have heard something), April 15, 1828; Alfred, August 17, 1829; Edmund, March 1, 1831; Matilda (who died), September 13, 1832; and Arthur, March 20, 1834. Arthur Orton went to some school in the neighbourhood, and afterwards went to a more advanced school, but he

never seems to have made much of his letters. The reason for this was to be found in the fact that when he was nine or ten years old he was afflicted with St. Vitus's dance. We have had the evidence of the medical gentleman who attended him and who was informed by his parents that the cause of his disorder was fright—the boy having awoke in the night and been greatly alarmed at a fire which occurred in the neighbourhood of his father's house. The malady persecuted him for some time, and to a certain extent affected his intellect. He was taken early from school and employed in his father's shop, and was taught the business of a butcher. The nervous affection, however, continuing, his father determined to send him to sea as a remedy for it, and accordingly he was apprenticed to Captain Brooks, of the ship Ocean, in which he proceeded to Valparaiso—the vessel being commanded by Captain Preston. The Ocean made some coasting voyages, and was back in Valparaiso in June, 1849, on the 25th of which month Arthur Orton deserted from her. Being afraid of being brought back by the local police and possibly roughly handled, he made his way to Melipilla, 40 miles inland. In that village—for it is not a town, though it has a considerable number of inhabitants—the boy repaired to the house of Dr. Hayley, an English doctor who was settled there. He told a sorrowful tale of ill-treatment on board the ship and was kindly received. The young fair-haired English boy, with his sad story, found his way to the hearts of the people. He ingratiated himself with them and they received him into their houses one after another. They were extremely kind to him and he remained among them for a considerable period. That fact is shown not only from the positive evidence of Donna Hayley, but from the Castro correspondence.

At length, however, Arthur had a natural yearning to return home and see his parents, brothers, and sisters. He engaged himself on board the Jessie Miller, and on the 11th of June, 1851, he arrived in this country. For some time he swaggered about in a sailor's suit of blue and wearing a ship officer's cap, which he had no right to do, but soon afterwards we find him again assisting in his father's shop, and taking meat on board the ships his father supplied. All that remained of the nervous affection was an involuntary raising of the eyebrows, which may have been an hereditary propensity, as some of the witnesses speak of it as being a peculiarity of his father's also. The young man remained in London until the end of November, 1852, and in the meantime, being now 18 or 19 years of age, he thought it necessary, at all events pleasant, to have a sweetheart, and addressed himself to a lady, now a widow, whose maiden name I do not know, but who was examined before you. She did not, however, like him, and told him a little feminine fiction, that she was already engaged. He then addressed himself to Miss Mary Anne Loder, and she assented to his attentions with a view to become his wife.

Towards the latter part of 1852 he determined to seek his fortune in Australia, and an opportunity of going there presented itself. Mr. Chapman, of Hobart Town, required a pair of Shetland ponies, in which old Mr. Orton and his son Thomas dealt, and Arthur engaged to sail in the Middleton as butcher, and to take charge of Mr. Chapman's ponies. He obtained a fresh register ticket in which he was described as a butcher, as being 5ft. 9½in. high; complexion, fair; marks on

son, none. We have been told that the officer only mentions marks that are visible on the face or hands, but takes the word of the person as to marks on the parts of the body which are not exposed. I should suppose that if Arthur Orton had any mark on his face the officer would have stated it. Now I have a list of the crew of the Bella before me, and I find among them Henry Allen, who has been examined here; James Peebles, second mate; Arthur Orton, and Owen David Lewis.

A Juror.—The captain's name, I think, was Storey.

The LORD CHIEF JUSTICE.—It was. The vessel left the docks on the 20th of November, but was detained in the Channel. Before the Middleton put to sea Arthur Orton wrote the following letters to Miss Loder:—

'Sunday, Decr. 12-52.'

'Dear Mary Ann,—I now take the first opportunity of writing (to you which I hope will find you & your Mother quite well as it leaves me the same. We have been lying here ever since we came away. We went away once but had to come back again it blew so hard. I hope you will write to me as soon as you can. If you write to me to-day I shall get it as we are likely to lay here 3 or 4 Days more yet. you must excuse my writing as the ship is pitching very much we lost one of our Anchor last night it blew so hard that it very near blew us on the sand. I hope you will not show this to any one as it is wrote so bad, if I get a letter from you I will write again so Good bye give my Love to all enquirens friends and except the same from.

'Your affectionate

'Friend ARTHUR ORTON

you must put them Directions on the letter Mr A orton on board the ship Middleton Hobart Town.'

'Torkey, Christmas day.

'My dear Mary Ann,—I take the opportunity of writing these few lines to you which I hope will find you quite well as it leaves me the same little though that should not been farther than this now for I should have had my Christmas at home. I have had a happy Christmas it is true Because I am quite well, but not very merry, as there was Plenty of Work. I received your letter in the Downs but not in time to answer it. as we was jus a goin. a way so my Dear you must excuse me in not answering it before as it was no neglect of myn. I hame Steward of the ship now So I have got 3*l*. per month for the passage out which will be a few pounds for a begaining. I am very comfotable on board we have had very bad weather we was a blage to put in here for Shater and not very Good Shelter either as it is a blowing a gale of wind now 2 anchors downs and Draging. it is now a 11 o Clock and I am getting sleepy so must excuse the shortness of the letter give my Love to your Mother and all enquirens friends and except the same from your affectionate and well wishing Friend,

'ARTHUR ORTON.

-):(-
M'

'Good bye

*'Middleton Capt Storis
'Hobart Town.'*

He wrote the two further letters, which are before you, to Miss Loder, dated December 28, 1852, and *New Year's Eve*. The letters are as follows:—

'Arthur Orton to Miss Loder.

'New Years Eve.

'My dear Mary Ann,—I received your letter this evening, and, was very Glad to hear that you

are quite well, as it leaves me the same. I wrote you a letter the day we left the Downs. But one of the men found it behind one of the water cast. so I suppose the Boatman I give it to—Dropt. But I will send you it so as you shall see it was so—not that I think you will doubt my word. I was at first afraid that you would not answer my letter when I found the other. So my Dear Mary Ann you must excuse me on your not getting it.

I hope we may not continue llok this long as I am miserable without a fair wind.

I will as soon as possible write My Dear when we get out.

I have never been on shew here yet—they are frighten I will leave her Because I said so the other day in jolking. I have not lost my senses yet awhile excuse the shortness of the letter—as it is very late. 1 to 12 and I am very sleepy so Good bye.

Give my Love to all enquirens friend and except the same from

'Your affectionate friend'

'ARTHUR ORTON;

Give my best respects to your Mother and tell her I thank her kindly for her good wishes. Good bye.

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There is one more letter, dated January 18th Torquay, which was the last that he wrote to her from England, and I must observe that all those letters have at the bottom, beneath the signature, that curious hieroglyphic which Arthur Orton appears to have been in the habit of using. It was something like two C's back to back, with two dots between and one in the middle of each C, and a W reversed with a stroke under it at the bottom. It appears that in South America they are in the habit of using signs of that description. Arthur Orton acquired the habit, and he annexed that peculiar hieroglyphic to all those letters. The Middleton, in which he sailed, arrived at Hobart Town in May, 1853. Part of the time he was on board he appears to have acted as steward, then to have resumed his office of butcher. He had charge of the Shetland ponies, and took them to Mr. Chapman. After a time he seems to have got employment as a slaughterman with some butcher at Hobart Town, and, having given it up after a while, he became drover and stock-keeper to Mr. Johnstone, a gentleman who had a station in the neighbourhood. Then we have this letter to Mary Ann Loder:—

'September 18, 1853.

'My dear Mary Ann,—I take the opportunity of writing these few lines to you which I hope will find you quite well as it leaves me the same. Henry Angel arrived here last Tuesday and I was very much surprise at not receiving a letter from you. I have being (*sic*) here 5 month and not received a letter from anybody but Elizabeth (*sic*) I suppose you have quite forgot me now but I have not forgot you yet, nor wont until I get reasons for it. My dear girl I hope you will be comfiteble until I come home that will be in about 15 months the gold diggers and solgers are fighting like taggers in Malborne as soon as they have done I shall go over and try my luck they sent here last week for 500 more solgers to guard them. Frank Jury is still at port Arthur I have not seen him yet. Mrs. Jury had a baby last week. I am very glad my Dear you did not come out when I wanted you because this is a Dreadful place to live in. I should not been able to have made you comfiteble and I would sooner luse all I got than made you un so I dont know what my Brothers and Sisters could be.

thinking of not to send me a letter by Henry Angel, they must have known that I should have seen him when he got here, but never mind I shall settle with them when I come home I hope you tell me all the news when you do write so good by.

'Give my best respects to your mother, and my mother and father, sister, and brother, and all the family, and all enquiring friends. I remain your affectionate lover,

'ARTHUR ORTON.

'Give the young one a kiss for me.'

After this letter, which arrived about Christmas, all further correspondence with Mary Ann Loder was dropped, and he seems to have retained only a faint recollection of his former love. Through the influence of a gentleman named Mansfield, Arthur Orton got, as I have mentioned, a situation with Mr. Johnstone. He writes at this time a letter of some importance to his sister Elizabeth, dated March 31, probably 1854. There is no such date on the letter as 1854; but judging from the time it arrived in this country, it was probably in that year. This is the letter:—

'March 31 (1854 or 1855).

'Dear Sister, I came back from the Sounds yesterday and received a letter from Mary Ann dated December 30. She says she wrote four times but this is the first I received. Captain Angel was here some time, but he brought no letters—in fact I came about 80 miles from the run to see him, but I only see him once after all, he was so busy with one and other that he had no time to speak to me. I met Mr. Jury once and had a long talk with him. I go to the Sounds once every 10 days so I shall see him every month. I wrote to George several times, but never received (*sic*) an answer let me know my dear sister whether (*sic*) you have heard from him or not. I feel very anxious (*sic*) to know. Give my best respect to Captain Jury and tell him I should very much like to see him and little Emily again. I shall never go to England again, dear Lily. I have made up my mind to that. I am now living with Mr. W. Ladds of Elizabeth-street (*sic*). I have been stock riding for him now two months. I use to land the imported stock before but this pay me better, so I shall continue. Give little Emily a Dozen Kisses for me and tell her to give you one for me. So good by, hoping to hear from you soon. Father and Mother were (*sic*) quite well when she wrote, but Thomas was rather ill. Let me know how my Dog was getting on when you left—I will write a long one to you when I know where you are for certain. I don't mean Mary Ann Loader that I got the letter from.—I remain you (*sic*) affectionate brother,

'ARTHUR ORTON. (S)'

Addressed to Mrs. E. Jury.

These are no doubt genuine letters of Arthur Orton. It was said by the counsel for the defendant that the man who wrote them showed such a wretched state of education and manners that he must be taken to be a low, coarse brute. That was the way in which he described poor Arthur Orton. Now I must say, judging from these letters, I see nothing which warranted the application of such language to him. The man was uneducated and illiterate; he could not write or spell correctly, but it is not because a man is illiterate or has not had the educational or social advantages that some of his superiors may have had that you are warranted in calling him a low, coarse brute. The man shows in these letters kindly, genial, tender feelings towards his sweet

heart, he speaks affectionately of his relations and friends, he has a fond and tender feeling for his little niece, to whom he sends kisses, and last, not least, he inquires kindly about his dog. All that shows a good deal of heart, and does not in any way justify the language which has been used by the defendant's counsel. It is not because a man cannot write logically and grammatically that you are to look down upon him with contumely and disdain. There is many a rough, honest man whom I should be as glad to shake by the hand, and whom I should value as much as I should the highest nobleman. And are such men to be spoken of in that way? Arthur Orton may have become a ruffian and a robber afterwards, if you please, but up to this time I can see no reason for the unparading abuse lavished on him.

Well, Arthur Orton was in the service of Mr. Johnstone in 1854 when he wrote that letter. Whether he remained in the neighbourhood of Hobart-town throughout 1854 is doubtful. It is a matter I should be glad that we could solve, because we shall find evidence by-and-by that he was seen elsewhere. Therefore, if we could fix the date when he left Hobart-town it would be of some assistance. The only witness, I think who helps to throw any light on the matter is a man named Hawkes, who speaks of the Shetland post as being extremely rare in that country and who says that he left Hobart-town towards the end of September, 1854, and came back in December, when he does not remember seeing Arthur Orton; that before he went Orton was keeping a stall in the new market recently opened by the Governor with some pomp and ceremonial and that the name of Arthur Orton was over the shop. But this must be a mistake, because there is no reason to believe that Arthur Orton opened a shop until 1855. Whether he went away and came back again we do not know, but undoubtedly we find him in Hobart-town in May and June 1855. According to Mrs. Jury he was there the whole time, but I don't know that she specifies occasions in which she came into actual contact with him so as to show that he was there. In May, 1855, however, he wanted to set up a stall in the new market, but had not funds for the purpose; so he applied to Mrs. Mina Jury's husband the brother of Captain Jury, who married one of Orton's sisters. Mr. Jury declined to give the money, but Mrs. Jury, who had saved some money of her own, lent him 14*l.*, for which he gave a promissory note for three months, dated May 22 1855.

The account which Mrs. Jury gives of the circumstance was this. She met him in the street he asked for the money; she wanted him to go to her house to complete the transaction, but he declined, saying that he was in a hurry. She took out a purse, and happening to have a baby with her at the time, and the wind blowing very hard the baby became troublesome, so she gave him 5*l.*-note in mistake for a 1*l.*-note. She became conscious of the mistake immediately afterwards, and said, 'I have given you a 5*l.*-note instead of 1*l.*-note.' But he said she had not, and while she was taken up with the baby he contrived to slip the 5*l.*-note beneath the other notes. That was Mrs. Jury's account, and whether it was the his comradely smote him afterwards he wrote to her as follows:—

'June 23, 1855

'I have not wrote before on account of getting settled before last Tuesday [here break], my dear friend, that I didn't find a

you had paid me 18l for 14l. until last Tuesday, then I went to pay [here is another break], and except the same from your truly humble, &c.,

ARTHUR ORTON.

'25, Newmarket, Hobart-town.'

and this note also she positively swore was in her handwriting of defendant. The promissory note was due on the 22nd of August, but Mrs. Orton never got the money. After this period, the middle of 1855, the accounts relating to Arthur Orton are more or less open to doubt with respect to dates, though I think we can follow in pretty clear and satisfactorily up to the period to which I am about to invite your attention.

We next hear of him in the service of Mr. Johnstone, at Newman-park. Mrs. M'Alister (then Mrs. Foster) had a brother, Mr. Hopwood, who managed Newman-park for this Mr. Johnstone. Erinvale, where Mrs. M'Alister was, and Newman-park were on opposite sides of a creek. He saw her brother one day driving in with a man she did not know, but who afterwards was in her husband's service. This man was Arthur Orton, no doubt; but whether he was the defendant is another matter. Mr. Hopwood was the same time engaged in a very extensive job at Newman-park, making fences of split wood. This was in 1855, and he said there was then in Mr. Johnstone's employment, for eight or nine months, as stock-keeper, a man named Arthur Orton. Then he says that this same Arthur Orton went into the employ of Mr. Foster at the opposite side of the river, that he was in the habit of seeing Arthur Orton very constantly, and that Arthur Orton told him he had first come to Hobart-town, and had been engaged by the same Mr. Johnstone of Newman-park. The next authentic information we have about Arthur Orton when he was in the employment of Mr. W. Foster at Boisdale. Mrs. Foster says, 'Arthur Orton came into our employment, I think, in November, 1856,' but in that she was mistaken. It appears that for many years they kept at Boisdale books in which were contained accounts relating to every man employed on the cattle or sheep farm. A regular debtor and creditor account was kept. In those stations, very often isolated and at a great distance from any place where things can be purchased, and in a country where means of communication are extremely limited, they necessarily keep stores of things required for their daily use by the people employed on the farm, and an account in which the men are credited on the one side with the wages they have earned and debited on the other with the goods they have received from the store is kept. The books at Boisdale appear to have been kept in a very methodical manner. They are thus enabled by the inspection of these books to determine whether at a given time any particular person was in employment there. Now, an account was opened with Arthur Orton in the latter part of the year 1857, but it records that he entered the service on the 15th of December, 1856. When the accounts came to be made up at Christmas, 1856, he was too short a time in service to make it worth while to set out his account in full. And, accordingly, on the 31st of March, when under ordinary circumstances he would have had an account for the quarter only, he furnished him with an account beginning on the 15th of December. Thus:—'March 31. In December 15 to this date, 15 weeks and one at 25s. per week, 18l. 18s. 6½d.' Then, on

the 12th of May, they furnish another account. It appears that at this date (the 12th of May) a fresh agreement was made, and Arthur Orton, instead of serving as stock-keeper at Boisdale, was transferred to Dargo, where he must have been head-man, Mr. Foster not being able to overlook that station himself. It was agreed that Arthur Orton should have 80l. a year, which would be more than 30s. a week, and the accounts are stated accordingly.

He remains at Dargo all the rest of 1857 and up to the 1st of July, 1858, when he makes up his mind that he will stay at Dargo no longer. Mrs. M'Alister gives us this account of it:—She and her husband were one day at the station outside her own house, when they saw a horse coming which was perfectly familiar to Mr. Foster. 'Oh!' said he, 'here is roan Tommy, and this must be Arthur Orton.' Orton rides up, and Mr. Foster says, 'What brings you here?' The other answers, 'I won't stay at Dargo any longer. Since "Ballarat Harry" disappeared the place is too lonely.' 'Ballarat Harry' had disappeared; he was murdered, and it was not known who murdered him. It was said it was a man named Toke, but a strong suspicion attached to Orton himself, and that suspicion his survival in the colony to this day. It is quite unnecessary for us to determine whether he did it or not. But at all events the reason for his refusal to go back to Dargo was that he could not bear to be there by himself since 'Ballarat Harry' had disappeared. Mr. Foster consents to his staying at Boisdale, and by-and-by he says to Orton, 'You cannot expect the same wages as when you were at Dargo. Your wages must come down to 30s. a week.' But Orton refused to accept the terms, saying that he had not got proper notice, and Mr. Foster says, 'Well, then, you must leave my service altogether.' 'If so,' says Orton, 'you must pay me a week's wages for sending me away without notice,' and then he institutes a suit against Mr. Foster to recover the higher rate of wages. The suit having been brought, it was agreed that it should be referred to arbitrators. Mr. Montgomery, formerly manager at Boisdale, was arbitrator on Mr. Foster's part, and a Mr. Richardson on the part of Arthur Orton. They could not agree, and they appointed an umpire, and the case was entered upon at Sale. On the 27th of January, 1859, they decided that the plaintiff, Arthur Orton, was not entitled to the wages he demanded.

So much for Arthur Orton, of whom more hereafter; but for the present I drop him and return to the defendant. He tells us that he went to Boisdale immediately after he had engaged with Mr. William Foster, the day after he landed at Melbourne, and that he remained in his service at 30s. a week for 19 months, that he was then transferred to Dargo at 40s. a week, that he stayed there 18 months, and that he then came back to Boisdale, where he remained three or four months. In cross-examination he reduces the period of time, representing himself to have been in one place for 12 months, at the other for 15, and again on coming back at Boisdale for a short period corresponding with that when Arthur Orton was there. By this means the defendant in his statements covers a period of either 40 or 30 months, as you take the one representation or the other. In either case it is a long period. In the one case the time is from three to four years, in the other nearly approaching three, which this service at Boisdale and Dargo is represented to cover. But what if it turns out that at this period the

defendant never was there at all? You are yourselves the sole judges of the credibility of this evidence that he was at Boisdale and Dargo at the time he says. If that period of time is cut away from the defendant, it is obvious that the whole foundation of his Australian story falls to the ground, and with it you must judge whether or not the superstructure which has been erected upon it does not fall to the ground also. You are to consider whether, if the defendant's statement on this part of the case is disproved, a breach has not been made in his defence which no ingenuity and no power of eloquence can repair.

This part of the case against the defendant rests principally upon the statement of Mrs. M'Alister, the widow of William Foster, by whom the defendant represents himself to have been engaged as Thomas Castro, and under whom he says he had served at Boisdale and Dargo. Now, Mrs. M'Alister says there never was such a man as Castro at either place at all. 'There was undoubtedly,' says Mrs. M'Alister, 'a person named Arthur Orton at Boisdale and Dargo, but never a person named Castro. And not only was that so, but my husband and I never went to Boisdale until 1856.' She was married to Mr. Foster, who was then managing the Erin-vale station in 1852. In 1854, during which they were still at Erin-vale, a sister of hers married Mr. Montgomery, who was manager at Boisdale before William Foster. As regards July, 1854, she says she received in that month the tidings of her brother's death, upon which she and her husband got on horseback and rode over to the station at which Mr. Montgomery and her sister were then living, to communicate the intelligence to them. They then came back to Erin-vale, and she and her husband took no journey to Melbourne in that year. His business relations from Erin-vale were not with Melbourne, but Hobart-town, and, therefore, she is able positively to state that her husband did not go to Melbourne at that period. 'And not only did he not go to Melbourne at that time,' says she, 'but he had nothing whatever to do at that time either with the Boisdale or Dargo stations.' Therefore he could not engage any person to manage those stations. 'But then,' says the counsel for the defence, 'this is a mistake. The defendant may have confounded John Foster the uncle with William Foster the nephew, and John may have been at Melbourne.' But the defendant himself was asked who the gentleman was in the auctioneer's yard who engaged him, and he said he discovered it was William Foster, nephew of John Foster. Therefore he could not have gone into the service of a man named William Foster and not known that that was the person with whom he had engaged. Why, every letter that came, and every account that was made out, was in William Foster's name, and the defendant distinctly states that the man with whom he engaged and with whom he rode to Boisdale next day was one and the same. Mrs. Foster is positive that her husband never went to Melbourne until November, 1856, and consequently the defendant could not have been in Mr. William Foster's service through 1854, 1855 and 1856. You heard the woman, and she appears to have been a perfectly respectable witness. Her present husband, Mr. M'Alister, also came, and having stated that he married her after Mr. William Foster's death, having been employed as second under Mr. William Foster, he declares that during the time he knew the station there was no one there of the name of Castro.

Are you to believe these persons? Is the oath

of Mrs. M'Alister of less value than the defendant's? Counsel for the defence says, 'Yes; because she and her husband have received 1,000*l.* to come over and give evidence.' Well, 1,000*l.* is a large sum to receive, but it is open to explanation. Mrs. M'Alister says, 'I had a large family, I would not come without my husband, and if my husband and I were to come I would not come without bringing my children also. Then we had to shut up our establishment; the expenses of the journey were very great. There is this to be considered, and there is the disruption of our ordinary relations and pursuits, the danger of the voyage, and the inconvenience and discomfort of going away from home. For all that we are entitled to remuneration.' There is also this to be said, that witnesses of that sort are beyond the jurisdiction of the Court; you cannot compel them to come, and you must drive a bargain with them if you want their testimony. But we have the means of testing her evidence and seeing whether the 1,000*l.* had the slightest influence in determining it. Mrs. M'Alister was examined under the Commission which went out to Australia, and for the evidence so given she was to receive no further remuneration than the ordinary remuneration for loss of time. That evidence was given before she had the most distant idea she would be required in this country. When, therefore, the learned counsel suggested that Mrs. M'Alister's evidence had been influenced by the sum of 1,000*l.* which she and her husband received, I reminded him that the evidence given in this Court did not vary one hair's breadth from the evidence given before the Commission, as he would see by looking at that evidence. 'Oh!' says the learned counsel, in a supercilious tone, 'I did not trouble myself to look at it.'

I did not make any observation on that, though it rose to my lips to say it was his duty to have looked at it. But though the learned counsel did not take the trouble to look at that evidence, the second counsel, Mr. McMahon, did. And here let me say that throughout this trial, as on other occasions, Mr. McMahon has never been wanting in his duty. He has done his duty like a lawyer and a gentleman, and in a manner perfectly worthy of a member of the English bar. But we have another and still more effectual way of showing whether Mrs. M'Alister's evidence is true, because we have the Boisdale books, and we turn to them to see whether we can find any mention of the name of Thomas Castro, and we find none. The books are produced for 1854, 1855, 1856, 1857, and 1858, and in none does the name of Castro occur. Is there any reason to doubt the perfect genuineness and accuracy of those books? None whatever.

Now, gentlemen, you must judge for yourselves—it is altogether a matter for your consideration. I have brought the evidence before you, and you must make up your minds upon it. The question is whether the defendant under the name of Castro—for it is under that name he represents himself to have been at Boisdale and Dargo—was there or not. If he was not he fails to account for himself during a period more or less of three years. Then, what becomes of his Australian history? Can you believe the rest of it, so far as relates to him in his character of Roger Tichborne, any more than you can believe this?

It is necessary now to follow the defendant in the accounts of his various migrations in Australia. It would be desirable in the interest of the defence that we should find consistency

narrative of the defendant's life from the time that he left Boisdale and Dargo until we find him coming forward in this matter. I am sorry to say that I do not find that consistency, that there are a great many variations in the statements made at different times, and that it is very difficult to fix places and dates with reference to his whereabouts at this time. He says of himself,

'When I left Mr. Foster I went down to the township of Flodden Creek, in the district of Sale, or about a fortnight. After I had been to Flodden Creek I went up to the mountains, and first to the Nicholson River gold diggings. I was there about a couple of days, and then I went to Dargo, where I remained four or five days. I never settled on any particular place for any time or three years after that, except in Omaso, where I was about six months. I first went to Wagga-Wagga about 1861 or 1862. In the interval I had been at various other places. I used to run the mail from Boree to Miranda, about 74 miles. I was at a place called Myers' Flat about seven weeks in 1858. It is a suburb of the Bendigo diggings. While there Arthur Orton was with me. There was an hotel there. I don't remember the name of the man who kept it, but I knew him. On the first occasion I spent about ten days at Wagga-Wagga. Afterwards I spent two or three days there. The third time I remained about two years. I superintended a butchering business, which belonged to Mr. Robert Higgins.'

Well, gentleman, it is for you to consider how far you can believe that Roger Tichborne, with all the advantages of rank and fortune, would have been leading the sort of life described by the defendant—breaking horses and slaughtering first or one man and then for another, without any settled occupation. And I should observe furthermore, that in these details the year 1859 remains wholly unaccounted for. That is a year in which you will see presently that he and Arthur Orton were always together according to his own account, and many of those things happened about which he declines to answer, lest he might incriminate himself. But in 1862 we find him finally at Wagga-Wagga in the employment of Mr. Higgins, who carried on the twofold business of hotel-keeper and butcher. The defendant becomes his foreman; at one time he slaughters, at another he does the general business of butcher's foreman. He was engaged in this way in 1863 and 1864, and with respect to the latter year we have a witness whose evidence, if we can rely on it, is certainly very remarkable, Mr. Petit Smith.

Mr. Petit Smith holds an office of trust in that country. Mr. Smith had been foreman in a store at Wagga Wagga, and afterwards he was an auctioneer and general agent there. He remarked that Mr. Castro used to cut up meat in an artistic manner, and not in the rough-and-ready way customary in a country where there is a superabundance of animal food. Indeed, Mr. Smith complimented him on the admirable manner in which his shop was kept, and the meat cut up. He received answer, 'If I don't know how to cut up meat, I don't know who does in this district. Why, I was apprenticed to a butcher in London, and used to cut up meat in Newgate Market?' Surely this was a most extraordinary answer to come from Roger Tichborne. On another occasion, the witness, referring to this conversation, said, 'By the way, you were telling me the other day that you were in Newgate Market. Do you know the Kings, of Newgate Market?' The answers, I should observe, are connections of Mr.

Petit Smith's. Says Castro, 'Well, there are several Kings in the market.' 'Yes, but did you know John and Henry King?' 'Oh, yes, they were brothers, but they were not in business together.' Castro went on to describe Henry King as being a man of about the same height as the witness, and he mentioned that his stall was the second or third from Newgate-street. Mr. Smith next asked, 'And what kind of a man was John King?' Castro described him as a big stout man, weighing about 15 stone. He added that John had two stalls in the same passage as his brother, and that he had collarage under them. Now it happened that John King had married the aunt of the witness, who had a thorough knowledge of both the Kings and of their places of business, and he says this account given by Castro was correct.

If the witness's statement be true, what is the result which necessarily flows and results from it? Could Roger Tichborne by any possibility have had this knowledge? We have traced with minuteness the history of Robert Tichborne's life and education, and it is for you to consider whether he could possibly have acquired a knowledge of all these details about Newgate Market. The question as to whether the person who gave these details was Arthur Orton I postpone for future consideration. But, independently of that, do you think the details are such as could possibly be within the cognizance of Roger Tichborne, unless you adopt the suggestion of the learned counsel for the defendant that Arthur Orton and his client, having been intimately acquainted with each other in Australia, Roger Tichborne, who was then passing by the name of Castro, had become familiar with all the details of Arthur Orton's life? I certainly do not see why Roger Tichborne should assume the character of a man who had been brought up in Newgate Market, and, even if he knew all about the market, such knowledge would not give him the skill to cut up meat in an artistic manner. However, there is the evidence, and it is for you, gentlemen, to make up your minds whether you believe it or not.

A JUROR.—I think the learned counsel attributed Roger Tichborne's skill in cutting up meat to his early fancy for dissecting cats.

THE LORD CHIEF JUSTICE.—Well, I don't think it worth while to dissect that argument. There is something ludicrous in it. In the course of the year 1864 the defendant thought of setting up in business, so he took a shop and some other premises as a slaughtering yard. But the business did not prosper, because he had no capital to carry it on. He could not pay his rent, an action of ejectment was brought against him, and he was turned out of the premises. During the proceedings in ejectment Mr. Miller acted as his legal adviser. The defendant was obliged to quit his premises, and then he appears to have returned into the employment of Mr. Higgins, and to have continued in it until the latter part of 1865. While he was still in Mr. Higgins's employ, an event of very considerable importance occurred—namely, his marriage.

On the 29th of January, 1865, he married a person named Ann Bryant, and his marriage is a circumstance of considerable importance in this case in more than one respect. I don't wish to say a word which could give the defendant's wife a moment's pain or disquiet. Whatever may be the result of this inquiry, she is an entirely unoffending person in the whole matter, and it is

crual, perhaps, that her name should be in any way brought forward in it; and yet it is impossible to overlook the defendant's marriage. We know from his own statement that his wife was a domestic servant, that she was perfectly illiterate, being unable to read or write, and that to the marriage register she affixed only her mark. We know something else which I do not wish any further to refer to. I will only ask you to look at the Wagga Wagga will, and to the description of her in the marriage register. I advert to these circumstances only because I think it might you should consider how far it is likely that Roger Tichborne would have formed such a union. Roger Tichborne would, of course, have been perfectly aware who she was, and there is apparently no reason to suppose he had abandoned the intention finally and for ever of returning to his native country and resuming his station. He must have known that if ever he did so the marriage he was forming would create a difficulty, as he could not place his wife in the position which the wife of Roger Tichborne ought to occupy as regards society and intercourse with persons of equal rank and station. Nor do I find that there was such a romantic attachment as would suffice to induce a man in spite of all such considerations to say:—'I don't care; I love this woman with such intense love that I will forego society and give up all social pretensions for her sake.' I say this because we shall find that when the defendant made up his mind to come to England and assert his claims he for a long time contemplated leaving his wife in the colony and keeping the fact of his marriage entirely secret. He told one of the witnesses he deeply regretted having married beneath him; thereby putting an obstacle in his way. I say this is one of the circumstances you ought to take into consideration as affecting the probability of his case—namely, that we find the defendant forming a union which is apparently incompatible with his position as Sir Roger Tichborne.

But that is not all. We must next consider where and how the marriage was celebrated. Roger Tichborne was the heir and the representative of one of the ancient Catholic families of this country, and though I cannot say I think he had any great veneration for the priests of his Church, or for the Church itself as a body, yet he tells us again and again that he always stood up for his own religion when occasion required. In fact, there is no reason to doubt that as far as he could be attached to anything he was attached to the Roman Catholic Church, and that he was a true and real Roman Catholic. Now, if there is anything a Roman Catholic would be likely to shrink from it would be having the marriage ceremony performed by a Dissenting minister in an ordinary habitation, and not in a church belonging to his own faith. Yet we know that the defendant, then passing under the name of De Castro, had the marriage performed in a private house by the minister of a Wesleyan congregation. Let any Roman Catholic judge whether that is a thing likely to be done by a member of his Church. And what is the explanation? Was there no Roman Catholic chapel at Wagga Wagga and no priest who could unite these two persons in holy matrimony? The defendant does not allege this, but he gives two reasons, hardly compatible with each other, why the ceremony was performed by a Dissenting minister. The first is that he was not on good terms with the Roman Catholic priest, but I do not see that is a valid reason why a

Roman Catholic who regards marriage as a sacrament should allow it to be defiled. Another reason the defendant gives is this:—'I knew the priest would not perform the ceremony unless I first went to confession, and I could not do so without avowing who I was, because giving a false name would be in itself a sin.' We had some clerical evidence on that subject, and as far as I can make out there is no sin in concealing one's real name, unless it is done for the purpose of fraud, and in order to impose on the woman. If for social reasons a man is living under an assumed name, there is no sin in the concealment, and he is not obliged to reveal the fact in confession. Still, the defendant may have thought he was, and have consequently refrained from asking the priest at Wagga Wagga to marry him.

At all events the defendant takes a wife—An Bryant. He chooses to take her from a very humble sphere of society. Still she is as much his wife as if she had been a woman of rank and title, and one would naturally suppose she would become the recipient of his secrets if he had a secret respecting his social position. One would have thought he would have said to her, 'I am not Tom Castro, as you have believed me to be; I am Sir Roger Tichborne the heir to a baronetcy and to a large fortune. There is another fact concerning his marriage this is deserving of attention. Roger Tichborne, on the 29th of January, 1865, was 86 years of age, whereas Arthur Orton was only 80 years of age, he having been born in March, 1834. It is remarkable, therefore, that the defendant, at the time his marriage, stated his age to be 80 and not 86. It is also a curious thing that in the register he described as a native of Oshili.

The next event to which it is necessary that should call your attention is the writing of what has been called the Richardson letter. In April 1865, the defendant goes to a schoolmaster Wagga Wagga and asks him to write a letter. The schoolmaster accordingly did so, and, as it was to bear the name of Thomas Castro, he asked the defendant to sign it, but the defendant would not do so. The schoolmaster, therefore, signed it himself. The letter was addressed to Mr. James Richardson, who had carried on business in High street, Wapping, two or three doors from the establishment of old Orton. To this man, who was well known in Wapping, the defendant addressed the following letter:—

'Wagga Wagga, April 13, 1865.

'Mr. James Richardson, — Sir, — Although perfect stranger, I take the liberty of addressing you, and as my residence at present is in this distant colony, I trust you will pardon the intrusion and oblige me by granting me the favour I seek. I believe there was some years ago living in your neighbourhood a person named Orton. To this man I wrote several letters, none of which have been answered. The letters are of importance to Orton or his family, and to no other, so that I must conclude he has not received them, as I am certain they would be answered. Besides, as the district is or lately was in a very disturbed state through a lawless set who styled themselves bushrangers, and who respected neither life nor property, I concluded my letters fell perhaps in their hands. If Orton or his family live near by, still, or if you have or can give any information respecting them, I shall feel ever grateful. I write to you here with pleasure that one of the most notorious of the bushrangers has fallen by the ball, and that on the news of his death and

being properly chronicled I will send you the paper containing such. I trust you will not fail to oblige me by sending any information whatever respecting Orton or his son Arthur. I am, Sir, your obedient obliged servant, THOMAS CASTRO. Should you write, address Thomas Castro, care of R. J. Higgins, Esq., Australian Hotel, Wagga Wagga, N.S. Wales. To James Richardson, Esq., 72, High-street, Wapping, London.

In his cross-examination the defendant said he never wrote a letter to old Orton at all. He was asked:—

‘At what period of your life did you first begin to inquire about Arthur Orton?—I do not see how I can remember that. Just look at that letter. Was it written by your direction to Mr. Richardson?—Yes. . . . Now, what was it that made you on the 13th of April, 1865, at Wagga Wagga, so anxious about Orton or his son Arthur?—I wish to explain first that the dictation of that letter is not mine—that I merely asked a schoolmaster to write and ascertain whether anything had been heard of Orton, as I had not seen him for two or three years. To write and ascertain whether anything had been heard of Orton there?—In England—whether he had returned or not. As you had not heard from him for two or three years?—Yes, that is the lapse of time which I gave you. “Or if you have or can give any information respecting them I shall feel for ever grateful?”—As I said, the letter was nothing dictatorial at all. Did you read it before you sent it?—Probably he read it over to me—yes. What did that mean? What was it would make you feel for ever grateful for any information respecting Orton or his family?—I did not want to know about his family. It was only about him. Cannot you tell me what you wanted? This was read over to you, you say, probably?—Yes, probably it was. If Orton or his family live near you still, or if you have or can give any information respecting them, I shall feel for ever grateful.” What was it would have roused your sense of gratitude so much in April, 1865, by the receipt of any information about Orton or his family?—You see I did not dictate that letter at all—it was a schoolmaster’s. So you have said, and I have asked whether it was read over to you, and you said probably it was?—Yes; it is likely it was. Written by your direction. What made you say you would be very grateful?—I do not know that I was grateful at all. It was put in as a matter of course. What, pure Castilian! You mean that is a flourish?—I did not mean it was Castilian. You meant it as a flourish, did you?—I do not know, I am sure. It was the schoolmaster’s note; not me. He ought to be a better judge of what he put in.

What made you anxious to know at that time were Arthur Orton was—about Orton and his family?—Well, I was anxious to know where he was. If you directed information to be obtained about Arthur Orton, it is curious there is not a single syllable said about Arthur Orton till the very last words of the letter?—Still, that is what told him to write about it. It is all about Orton’s family, and at the very end it says, ‘Orton or his family.’ It is singular, if that was read over to you, why that should be. Can you explain it?—I came you to let that letter go in that shape?—I do not know. I do not suppose I took much notice what shape it was in. Had you seen any of the family at that time named Orton, except Arthur?—No. Was there anything at all at that interesting or important to Arthur Orton

that you wished to communicate?—Yes there was. What was that?—I shall decline to answer that question. But I am afraid I must press you for that.—I decline to answer that question. The Lord Chief Justice: Why?—It might have a tendency to eriminate myself. The Solicitor-General: It would not criminate you here, would it? I ask you, on your oath, do you mean to say that answering the question would tend to criminate yourself?—On my oath it would. “To this man I wrote several letters, none of which has ever been answered.”—Well, I have never written any letters to them. Then that is untrue?—I suppose it is. I certainly had never written any letters to them before. How came the schoolmaster to write that?—I can’t say I’m sure how he came to write that. You told me it was written by your direction?—It was. The schoolmaster was sitting in the office, and I asked him to come in and write them. And then it was probably read over to you?—Well, I should think it was. Where on earth did the schoolmaster get the information that you had written several letters to a man named Orton in the neighbourhood of High-street, Wapping, none of which had ever been answered?—I do not remember that being written at all. Will you swear you did not?—Yes, I will swear I did not.

‘The Lord Chief Justice: Just before you answer in that way, bear in mind that it is not simply in one part of your letter, but the whole substance of the body of the letter has reference to the letters you have written, and it is mentioned three times. Therefore in three places letters are mentioned, and are mentioned with reference to the substance of them. Do you mean now you never wrote to Orton?—No, I think on reflection I must have written. The Solicitor-General: You must have written, on reflection?—I have no recollection of having done it, but there is no doubt from the tendency of that letter I had done so. The tendency?—When Orton went away he left two addresses with me. The Lord Chief Justice: The letter was read more than once, and you swore positively “I had never written any letters.”—If I did so, I did so purely from my thoughts, my lord. The Solicitor-General: Do you remember what the letters were about?—If I wrote, they were to Arthur Orton himself. But you say to Orton?—Yes, not to any one else.—I certainly should not have written. But that Orton is not Arthur, but the father of Orton?—No, I certainly never wrote to him. Why did you say you did?—I can’t say I am sure, what I did then, and I am not aware that I did do it?”

Why should Roger Tichborne, the habitual letter-writer, have had recourse to a schoolmaster instead of writing himself, and why should he want information about old Orton and his family? If Arthur Orton had the address of Mr. Richardson he might have had a reason for writing to him, but this will have a stronger bearing when we come to the Orton part of the case. So much for the Richardson letter.

I have already said that the defendant, having set up business for himself, got into difficulties, and employed Mr. Miller, an attorney, as his legal adviser. Mr. Miller did his best, but could not prevent his being ejected from the premises he occupied. About this time—the month of April, when the letter was written—Mr. Miller entered into negotiation with Mr. Gibbs for the transfer of the Wagga-Wagga business to that gentleman, and on the 20th of July Mr. Gibbs took the business of Mr. Miller. For professional services, and

also in respect of some horse-dealing transaction, the defendant remained indebted to Miller in the sum of about 6*l*. When Mr. Gibbs took the business, he took the debts with it, and there was this claim against the defendant for the sum of 6*l*. Shortly after he began business Mr. Gibbs was opposed to the defendant on behalf of a client, in a suit which the defendant brought against Mr. Elliot to recover for wages, or for rent—it does not matter which—if for rent, in respect of some premises Mr. Elliot had taken of him. The defendant, who conducted his own case, prevailed; and, as Mr. Gibbs afterwards said he thought, prevailed justly. Mr. Gibbs reminded the defendant of the claim against him for the balance due to Mr. Miller, to which the defendant said he was not in a condition to pay. Mr. Gibbs urged him to go through the Insolvency Court, and the defendant agreed to do so, saying to Mr. Gibbs that he might as well prepare the schedule. Then the defendant says to Mr. Gibbs, 'I have been thinking whether I can go through the Insolvency Court with safety. The fact is I have got a little property in England; and should not I have to state that?' 'Oh, certainly,' says Mr. Gibbs. So the defendant shakes his head and says, 'I have property in England.' Mr. Gibbs gives us rather a confused account of the earlier communications of the defendant on the subject of the property. I have perfect confidence in Mr. Gibbs to this extent, that I do not believe he intended to tell us anything that was not true. He was extremely anxious to do justice to both parties, but I would not trust implicitly to his recollections. His account is that he understood first that the property was in the South of England, and afterwards in Hampshire, but that it was small and insignificant, and that it was entailed property which, in the event of his death, must go to his cousin. The matter rested there for the moment; but out of these relations between Mr. Gibbs and the defendant arose the claim afterwards brought forward.

We know that all interested in Roger Tichborne had resigned themselves to the belief that he had perished. His mother, Lady Tichborne, still refused to believe in his death, and clung, in spite of everything, to the irrational belief that he still survived. We have been told how she and her husband had words on the subject, when she would harass him on that theme. Both Sir James and his wife loved that boy with a fond parental love. His mother hoped against hope, and clung to the belief that he would re-appear. As long as the father lived, Lady Tichborne was kept under some control; but as soon as the father was dead she gave the reins to her unceasing desire to inquire about her son. Even in the lifetime of her husband, any idle tale brought by a beggar in the garb of a sailor had eager credence from her. Brand, the gamekeeper, has told us that the beggars waited until Sir James went out and then made their way up to the mansion. In 1862, when Sir James died, his widow immediately began to take steps to see whether she could discover her long-lost son. In 1863 she advertises in *The Times* and other papers in three languages—English, French, and Spanish.

In this year the defendant was settled at Wagga-Wagga, where at the hotels and institutes the English papers are taken. Therefore, when the defendant was settled there, there was the possibility of the defendant seeing these advertisements; and besides that, two or three copies of the

Illustrated London News—one of the leading features of which is an obituary of the births, parentages, and arms of persons of distinction—go to Wagga-Wagga. There is no evidence that he saw this particular paper, but it is probable that he did so. In May, 1865, it happened that the Dowager Lady Tichborne chanced to see an advertisement in *The Times* of a Mr. Cubitt, of Sydney, who had a Missing Friends' Office there. No sooner did Lady Tichborne see this than she made this Mr. Cubitt and his Missing Friends' agencies the means of discovering her son, whom she believed to be still alive, and whom she had taken it into her head was in Australia. The following letter was written from London, bearing date May 19, 1865:—

Lady Tichborne having read in *The Times* of the 19th of May the address of Mr. Cubitt missing friends office thinks that she might write to Mr. Cubitt to ask him to make some inquiries whether Mr. Roger Charles tichborne now eldest son was by chance in his neighbourhood. Roger Charles tichborne is at present 32 years of age & cannot be found anywhere. all what they could possibly guess is that he embarked at Rio Janeiro on the 20th April 1854 but since that he never was heard of. however there are some rumours about his having been picked up by a vessel going to Australia possibly to Melbourne. They say that some people have been saved, & that only part of the crew has been drowned but to what part of South America did they go they do not know. still they say that certainly part of the crew of the bella has been saved, and has been picked up by a vessel going to Melbourne, and that afterwards they dispersed themselves, and Lady tichborne has not been able to get any other information. She was reading *The Times* this morning, and she saw that there was a Missing Friends' Office in Sydney, New South Wales, and she thought that perhaps Mr. Cubitt could take some informations respecting her son. he is of a delicate constitution rather tall and thin with very light brown hair and blue eyes the name of the vessel on which he embarked is "la bella" he is heir to a very large property and it is a subject of very great sorrow to his mother that he should have quitted both his father and herself his Father Sir James tichborne is unfortunately dead since he went away and his mother is always trying to get some informations wherever she can if Mr. Cubitt can hear anything respecting her son Roger Charles tichborne she would be most grateful to him and to whoever could find him out, and though he had no reason whatever to hide his name however he might be under a feigned name in some business house or somewhere. the person who could give his sorrowful Mother some information respecting her son would be handsomely rewarded. They think that the ship La Bella has been wrecked, but that part of the crew has been saved and taken to Melbourne, and that afterwards they dispersed themselves in every part of America and that is what gives rise to many conjectures. Lady Tichborne will feel so much obliged to Mr. Cubitt to take all the informations he can respecting her eldest son who went away in 1853 only for the sake of knowing the world and who most unfortunately has never returned home and has never been heard of since the 20th of April, 1854 when he embarked at rio janeiro to go to New York in the ship La Bella.' The Dowager signed herself 'Henriette F. Tichborne,' and she added in a postscript:—

'Lady Tichborne thinks that her son may have married, and does not like his family to know it, and, perhaps, has changed his name.'

Mr. Cubitt writes, on the 22d of July, acknowledging the receipt of the letter, and mentions a matter of some importance to a gentleman carrying on an agency business, that it is usual to remit some fee in advance, but he observed that her name was sufficient. Then he leads the poor lady a wild-goose chase. He tells her he believes he has heard her son, Roger Charles Tichborne, is alive in New Zealand, and that he is in some regiment there. The mother is in great distress, and fears her son will be killed by some of the natives. He encloses a copy of the following advertisement, which he had inserted in several colonial newspapers:—

'A handsome reward will be given to any person who can furnish such information as will discover the fate of Roger Charles Tichborne. He sailed from the port of Rio Janeiro on the 20th of April, 1854, in the ship *La Bella*, and has never been heard of since, but a report reached England to the effect that a portion of the crew and passengers of a vessel of that name was picked up by a vessel bound to Australia—Melbourne, it is believed. It is not known whether the said Roger Charles Tichborne was amongst the drowned or saved. He would at the present time be about 32 years of age, is of a delicate constitution, rather tall, with very light brown hair and blue eyes. Mr. Tichborne is the son of Sir James Tichborne, Bart., now deceased, and is heir to all his estates. The advertiser is instructed to state that a most liberal reward will be given for any information that may definitively point out his fate. Gentlemen in a position to refer to shipping reports may be able to find some record of the saving of the shipwrecked persons from *La Bella*, and a very careful search, if with a successful result, will amply repay any one who will take the trouble to investigate the matter. The replies to be addressed to Mr. Arthur Cubitt, Missing Friends' Office, Bridge-street, Sydney, New South Wales.'

As in Lady Tichborne's letter, so also in the advertisement, mistakes are made as to Roger Tichborne's age and the colour of his hair, and as the question will arise by-and-by how far you can rely on the judgment of Lady Tichborne with reference to the identity of the defendant with her son, it is not unimportant once more to observe all that passes in her mind when she makes the statement which is sent, first to Mr. Cubitt and afterwards to the defendant. No one can doubt that a mother's recognition of her son is, generally speaking, a circumstance to which an almost overwhelming importance would be attached, but every rule has its exceptions, and it may be that after you have considered the state of Lady Tichborne's mind on this particular point and observed her conduct down to the last moment of her life you may be of opinion that this is an exception to the general rule. However, that conclusion ought not to be too hastily arrived at. Well, Mr. Gibbs goes on writing to Lady Tichborne about the New Zealand discovery, which, however, ends in smoke. On the 17th of October, 1865, Lady Tichborne writes thus to Mr. Cubitt:—

'Sir,—I have received your welcome letter last night, and I hasten to answer it; the one you mention having addressed me in Wyndham-place has never reached me, and I have never had it. I rejoice at having given you my banker's address, as your letter has been safely delivered to me. I

need not tell you what inexpressible joy it will be to me if your informations are true, and I fervently hope they may prove to be so. I am only sorry you did not name in your letter the reward you may think fit for so inestimable affair. I have no idea what I could offer him who will devote himself to the finding out of my dear son, and I wish to be guided by you in that matter. Had you named the sum of money, it would have shortened time very much, as letters are so long coming. However, notwithstanding my great wish to be grateful with the person who will give me some valuable information, I am obliged to put you in mind that I have only my jointure, which has been shortened by circumstances too long to be mentioned in this letter. If you succeed the reward will come out of the estate, and my son, my dear Roger, will enter fully into my ideas and wishes on the subject. If very unfortunately you do not succeed, the expenses will and must be paid out of my own money, and my own personal resources are not so very great. It is an affair I have undertaken all alone, and at my own risk, having never given up the idea of seeing my beloved son again, and I cannot help feeling very anxious at the idea of his being in a regiment where he may be shot at any moment, especially as the war in New Zealand appears to be a very murderous one; therefore, in every way the sooner he is out of it the better it will be. If you could persuade him to write to me I would very soon know his handwriting. I have the greatest possible wish that you may not spare any trouble in every way to find out my beloved son, and I assure you I will not show myself ungrateful. Your first and last principal object will be to find him, and then to persuade him to come and join me in Paris as soon as he can conveniently do it. As for the money necessary for his discharge, it will soon be found; it is a very necessary thing, and absolutely indispensable, so be very cautious of speaking of that affair, and the greatest secrecy must be obtained, at least in England, for many reasons which it is difficult to explain in this letter, but some of these reasons will prevent the reward from being very handsome if you succeed.

'It seems to me that if Roger will consent to give his own name, and let a banker know where he is, he will easily find the money, as I am afraid he hides his own name, and is, perhaps, unwilling to let anyone know who he is. It would, however, be without any ground or reason for it, and I could not myself account for it except through the love of adventures. I also think it would be a very desirable and necessary thing to find out and ascertain whether he is married or not. He was not so when he quitted England, but perhaps he may have married since, and he may have children. All these particulars ought to be ascertained. For all that it will a most important thing that you should go over and speak to him yourself, and perhaps accompany him back to Paris, where I am at present, and bring him back to me, as I am so afraid that perhaps some of those people that he has got very likely acquainted with in that country might keep him back and prevent him from coming to join me either in Paris or in London. When he quitted Paris, just before his departure, his father, after having vainly tried to make him give up the idea of going away, at last told him that at least, if God was to take him, he hoped he would come back immediately to be his mother's protector. To that my son readily consented, and he said that in that melancholy case he would return to his

mother. I mention this as a motive to induce him to come back to me. And now that I have, I think, entered into all the particulars necessary, I recommend you once more not to spare either time or trouble to succeed in this truly interesting affair, and to bring it to a happy conclusion. My address will be for your next letter at my banker's, as he will always forward me my letters, wherever I am, and, in hope to hear soon what progress you have been able to make, I remain, very sincerely yours,

H. F. TICHBORNE.

'My address is Messrs. Callaghan's, 40, Rue Neuve des Mathurins, Champsée d'Antin, Paris. I prefer you addressing all your letters in future at my banker's as it is the safest way to get letters.'

So the matter stood after the New Zealand story had been given up until Mr. Cubitt received what was no doubt a welcome letter from Mr. Gibbs, of Wagga-Wagga, informing him that he had unearthed the real Roger Tichborne. On that a correspondence ensued between Mr. Gibbs and Mr. Cubitt. Mr. Gibbs told us, as you remember, that the defendant asked him what would be the consequence if he omitted property he had in England from his schedule in bankruptcy which he said was entailed. Gibbs thought it odd that property should be entailed on a man who gave a foreign name, and told him so. Upon that he replied that Castro was an assumed name, that he was a member of an English family, and that a distinguished one. Then says Mr. Gibbs, 'Are you the heir to the title?' and he said, 'I am the eldest son;' and a little time afterwards, while they were talking about the weather and so forth, Mr. Gibbs said, 'I wish I were at Sydney again, on that noble bay.' 'Oh,' exclaimed the defendant, 'if you had been shipwrecked as I was, you would not want to go on the sea again.' So Mr. Gibbs went home, and while chatting with Mrs. Gibbs on the curious vicissitudes of human life, mentioned his connexion with the eldest son of an English gentleman of title who managed Higgins's shop. Thereupon his wife says:—'Why, that must be the man who is advertised for.' 'Advertised for! Why, what do you mean?'

'What! Did you not see the advertisement in the *Melbourne Argus*?' 'No.' 'Oh, that is the man, you may depend upon it.'

Away goes Gibbs to the Institution, searches the papers, and comes to the conclusion that the defendant is the man to a certainty. He meets the defendant again and speaks to him about the climate. The defendant says, 'Ah, it is not so fine as the climate of South America.' Gibbs says, 'Oh, you have been in South America, have you?' and concludes there can no longer be the slightest doubt about the man, as the Bella had gone down near the coast of South America. He was pursuing the matter further when the defendant said, 'Ask me no more questions; you are fishing.' But Gibbs had made up his mind to get at the secret, and on a subsequent occasion meeting the defendant who was smoking a pipe, he said, 'Shall I call out your real name?' 'No,' exclaimed the defendant, 'for God's sake, don't.' 'Oh, I know who you are; you are Tichborne.' 'Is that it?' asked the defendant, holding up the pipe on which the letters 'R. C. T.' were carefully cut. 'Are those the initials?' 'Yes,' answered Gibbs.

After that, says Mr. Gibbs, he became much less reserved. One day they walked to the post office, and they talked about the spelling of the name. The defendant went on to say that he was the heir to a large property, including Tichborne-park. Mr. Gibbs sits down and writes to Mr. Cubitt a letter on October 9, 1865, and asks him whether he is in possession of further facts as to Roger Tichborne beyond those mentioned in the advertisement. This, perhaps, struck Mr. Gibbs on reading what Lady Tichborne said about her son's personal appearance. He says that he 'spotted' him some time ago, and that the defendant was disgusted when the name of Tichborne was first spoken between them. This letter must have been written before the name had been disclosed. Mr. Gibbs said the conversation took place before the 7th of September, but I am inclined to think he was mistaken on this point.

SEVENTH DAY. *Monday, February 9, 1874.*

Gentlemen, when we broke up on Friday we had reached the point at which the defendant had been brought into contact with Mr. Gibbs at Wagga-Wagga, and Mr. Gibbs had become so satisfied of the fact of his being Roger Tichborne who was sought after by advertisement that he wrote the letter of the 9th of October, 1865, to Mr. Cubitt, to which I have already directed your attention. After that date—up to which he had not, as it seems from the letter, given his name—he became more unreserved with Mr. Gibbs, and made a variety of statements to that gentleman connected with his history and his family and his property. Now, before I proceed further with the correspondence between those various parties, I think it would be more convenient at once to draw your attention to those statements, for what the defendant said at that time must obviously be of the utmost importance in enabling you to arrive at a satisfactory result in this inquiry. At that time you see the defendant was thrown upon his own resources. During the later period he is surrounded by persons who could and possibly did assist him. I do not say that they did. That is a matter for consideration hereafter. But when he came to England he is surrounded by Bogle, by the Dowager Lady

Tichborne, who was impressed with the belief that his hair had become fair by reason of the various vicissitudes through which he had passed; by Baigent, than whom no one knew more of the Tichborne family; by Rous, than whom no one knew more of the property and settlements; by Carter and McCann, who knew of the military life of Roger Tichborne. But at the time we are now speaking of he was in Australia and had no such source of information. And therefore any knowledge of Roger Tichborne he may have displayed, or any ignorance he may have manifested, is far more important than what he said or did at an after period, when his mind may have been informed of matters of which he before knew nothing, or his memory refreshed as to things he might have forgotten.

Now, these conversations with Mr. Gibbs are somewhat remarkable. When you want to know a man's past it is natural that you should ask him where he was born, where he was brought up, and where he was educated. Mr. Gibbs had taken the defendant up, and manifested at this time a warm interest in him. He believed he had got the right man; and he knew that, if he had, a small amount of credit would attach to the city of the Wagga-Wagga attorney, who had

covered the lost man whom nobody had been able to find. Possibly, too, there might appear to the eyes of Mr. Gibbs a glimmer in the distance of the possibility of a considerable reward. However that may be, Mr. Gibbs took a great interest in the defendant, and he naturally asked him where he was born. We all know where Roger Tichborne was born; he was born in Paris. The defendant's answer was that he was born in Dorsetshire, and he accounts for the fact of his birth there by stating that his father had, and had long had, a seat at a place called The Hermitage. First, as to his birth of course no man knows from personal recollection where he was born; but there is hardly a man, I suppose, from what he has heard in his childhood and boyhood, who does not know where he was born. The defendant then added that his mother, immediately after her confinement, went over to Cherbourg, and that he remained in France until he was 11 or 12 years of age, all which we know to be perfectly inconsistent with the fact. He tells Mr. Gibbs further that he had two sisters, who were born in France, which is perfectly accurate. Roger Tichborne had two sisters born in France—Mabel, who died an infant, and Alice, who died young. We know he had a brother Alfred; but, according to Mr. Gibbs, the defendant made no mention of him until a later period, and then mention is made of Alfred in connexion with his birth in England, whereas we know quite well that Alfred, as well as Roger, was born at Paris. He also told Mr. Gibbs that he had property tied up in England, and that in view of his death it would go to his cousin. We know perfectly well it went to Alfred. I asked Mr. Gibbs if he said anything about his brother, and he replied, 'My memory is not reliable on that point; it is an impression on my mind.'

At a later period of his examination Mr. Gibbs said he mentioned that a cousin would succeed him. He made no mention of Alfred. Then he was asked, 'Did you ever hear of Alfred until the Dowager's letter came, in which he was referred to?' and he replied, 'I cannot say. I know he said that two sons were born in England and two daughters in France.' Now, it is important to observe that he mentioned about the two daughters at Wagga-Wagga, where he had no external sources of information; and according to Mr. Gibbs he made another statement—as to his birth—which, if Mr. Gibbs is right as to the period at which he made it, would also be very much in his favour. He said he was born on the 5th of June, 1829, which date is, no doubt, correct as to the date of Roger Tichborne's birth, and which is a thing he could not have got at out there. Slate, the Hampshire man, could not have told him that. The advertisements for Roger Tichborne did not give the date of his birth, and it did not appear in the advertisements of the *Illustrated London News*. The question is whether Mr. Gibbs—who I have not the slightest doubt intended to tell us the truth, who is a man of somewhat flighty mind and memory, told us the precise date of the conversation; for if it was after the defendant had been at Sydney, where he had a *Baronetage* and looked at it, he could have acquired the information from that source. There is another point here observable—namely, *that while the defendant told the exact date of his birth, he did not know his own age, when, only a few months before, at his marriage, he said that he was 30, while the age of Roger Tichborne, as we know, was then 33.* Another thing seems to

have struck Mr. Gibbs, for he put this question: 'You say you were in France till you were 11 years old—do you speak French?' He replied, 'No, I speak Spanish'; and thereupon Mr. Gibbs, who understood that language, tried him, and told us that he spoke it volubly and with considerable rapidity and facility. Mr. Gibbs was himself a Spanish scholar, and knew the difference between pure Spanish and the sort of Spanish which is spoken in South America. He observed that whether the defendant is Roger Tichborne or whether he is not, the Spanish he spoke was the Spanish which would be learnt in that part of the old world. Here a difficulty, of course, presents itself, although it more properly belongs to another part of the case. But it does strike one as being very remarkable, the Spanish having been acquired by Roger at the time French was spoken by him with perfect facility and fluency—the French having been perfect as far as conversation was concerned, and the Spanish necessarily imperfect, as learnt while travelling about the country,—I say it is remarkable that the French, which was his mother tongue, should be wholly forgotten and the Spanish retained. That struck Mr. Gibbs and it would naturally strike anybody. I do not say it is an impossibility, but it is one of the striking things in the case.

Connected with this matter is the subject of education. It was natural for Mr. Gibbs to ask, 'Where were you educated? Were you at any public school?' He replied, 'No; I could not be educated.' 'Why?' 'I had a nervous affection, which prevented me from being properly educated, and all that could be done with me was to commit me to the charge of a Jesuit'—or, as was said at the later period, 'to a Christian Brother at Winchester—who took me about and taught me by snatches and at intervals when it was possible to do so.' That led to the inquiry, 'What was the matter with you?' Thereupon the defendant explained that he had a nervous affection of the face, and Mr. Gibbs, on hearing his description of it, said, 'Why, bless me, that must be St. Vitus's dance.' And says the defendant, 'Yes, that was what they called it.' Accordingly Mr. Gibbs, in communicating with Mr. Cubitt, and mentioning various particulars connected with the defendant which he thought essential to his identification, and in writing to the Dowager Lady Tichborne afterwards, dwells upon this same matter. That there may be no doubt about this, which is one of the most important questions in this case, I will read what Mr. Gibbs said. He was examined on a passage in a letter from him to Mr. Cubitt, and in cross-examination on the same point said, 'I suggested St. Vitus's dance, and he said it was St. Vitus's dance, giving that as a reason for his not being able to be educated.' Now Roger Tichborne never had St. Vitus's dance or any similar affection. It has not been suggested from the beginning to the end of the case that he ever had, and Lady Tichborne, the mother, when she hears of it, immediately repudiates it. Now, what says the defendant on the subject? He was cross-examined as to it, and he gives Mr. Gibbs's statement a positive contradiction. He is asked:

'Did you not tell your own attorney, Mr. Gibbs, that you had been afflicted with St. Vitus's dance from your childhood?—Certainly not. That you swear?—I swear, to the best of my belief, I did not. Never mind about "from your childhood." Did you tell him that you had been afflicted with St. Vitus's dance?—No, I do not think I did. Will you swear you did not?—

I swear I do not remember doing so. You will swear you do not remember doing so?—Was Gibbs called by your counsel and attorney at Wagga Wagga?—You have read the Australian evidence. You have read his deposition, have you not?—No, I have not. Do you mean to say that you have not looked at your own attorney's deposition?—I will swear solemnly on my oath that I have not. Have you not looked at your own attorney's deposition in Australia?—I have not read it. You have not?—Not one particle. Have you had it read to you?—Not a word. Not a word?—Not a word. The Lord Chief Justice.—Or a copy of it?—I did look at one or two of them, but not at Gibbs's. The Solicitor-General.—You did not see what Gibbs had sworn on your behalf in Australia?—No, I did not. Mr. Serjeant Ballantine.—Do not say "on his behalf." The Solicitor-General.—I do say "on his behalf"—called by you. Do you mean to swear that you did not tell Mr. Gibbs that you had been afflicted with St. Vitus's dance from your childhood?—I do not believe I did. Will you swear you did not?—I might do so. You might do so?—I might say I swear. Was it true you might do so? I might do so. I might swear positively. Will you?—I do not see why I should object to do it. Will you? Will you swear that you did not tell Mr. Gibbs, your own attorney, that you had been afflicted with St. Vitus's dance from your childhood?—I will swear that I do not remember telling him so. Will you swear you did not?—Yes, I will swear it. You will swear you did not?—I will swear I did not. If he has said that it is untrue?—It is untrue. It is a falsehood?—It is a falsehood. An absolute falsehood?—An absolute falsehood. Without any foundation?—Without any foundation. Did he ever talk to you after he received this letter from your mother in which she said that you never had—that Roger Charles Tichborne never had—St. Vitus's dance? Did he ask you to explain how you came to tell him that?—I think you will find he received that letter after my departure. That may be so. Can you account for his writing to Lady Tichborne, as it appears he did to say you had told him that you had St. Vitus's dance?—No, I cannot account for it. Can you account how Mr. Gibbs came to tell Lady Tichborne that you had said that you had St. Vitus's dance if you had not?—No, I cannot. Now, upon your solemn oath, did not you tell him that you had?—Upon my solemn oath I did not.

Now, either Mr. Gibbs or the defendant must have sworn that which is false. You must judge between the two witnesses. It is for you to say whether you believe the defendant on his oath, or whether you believe Mr. Gibbs's statement on his oath. If he told Mr. Gibbs that he had St. Vitus's dance, he could hardly be supposed to have made the statement without it being supposed that he had had it. It is a question of credit, for if he has sworn a deliberate falsehood in this it must shake your confidence as to the truth of his other statements, as to which he is contradicted by other witnesses. But it goes further, because Roger Tichborne never had the affection at all. In addition to the statement of Mr. Gibbs, we have the fact that he wrote to Mr. Cubitt and the Dowager Lady Tichborne, soon after the conversation to which he swears, referring to St. Vitus's dance as a means of identifying Roger, his object and wish then being that he should be identified. But it does not rest there. There is the evidence of another witness—Mr. Hodgson, who came over in

the ship with the defendant. Mr. Hodgson is struck with the fact that a man who had been brought up as the head of the Tichborne House, and who had for a long time occupied the position of a gentleman, should speak English in the uneducated form and style in which the defendant spoke it; and Mr. Hodgson could not help saying so to him. He put it to him delicately: 'It strikes me as odd that you don't speak English as I should expect;' and he makes the same answer, 'I could not be educated because I had St. Vitus's dance.' Mr. Hodgson says he observed that his conversation was not the conversation of an educated man, and his reply was that he had had St. Vitus's dance, and till he was 15 years of age he could not learn his letters. Now, the defendant is asked as to that, and he denies that he had ever said to Mr. Hodgson or any one else that he ever was afflicted with St. Vitus's dance. We have Mr. Gibbs supported by his own letters as well as by the evidence of Mr. Hodgson, who represents the same thing as having occurred.

There are one or two other things worthy of observation in the early conversations with Mr. Gibbs. He told Mr. Gibbs that he was a gambler, but, as far as we know, Roger never gambled, with the exception of the Brighton card case, and, according to the evidence of the family, Roger Tichborne was not a gambler. Mr. Gibbs was asked, 'Did he speak to you in the early part about gambling?' and he replied that he said something to the effect that he had a weakness for gambling, or was addicted to it. Now, there is no trace of Roger Tichborne ever having gambled. It was hardly in keeping with his character. There is, however, this qualification—it may have been that, though he had not gambled in England, he might have acquired the habit in Australia. The defendant made one or two other singular statements. He told Mr. Gibbs that his family had been giving 3s. in the pound to the Roman Catholic Church, but there is no evidence before us which would lead us to believe that the family did anything of the sort. Mr. Gosford, who was steward of the property for many years, had never heard nor dreamt of anything of the kind. There was what is called the 'Tichborne Dole,' but the defendant did not know what it meant. This dole was practised in the Tichborne family for a long period, and there is a celebrated picture of it in Tichborne House.

Now, as regards the property, his statements are certainly remarkable. In the first place, he represented the property in terms which led Mr. Gibbs to believe that it was small and insignificant. He said that at his death it would go to a cousin, and when he got a little more familiar in his conversation and more unreserved in his statements he told Mr. Gibbs that the estate comprised Tichborne, and that there was also property which had come from a relative, and he mentioned in connection with this property the name of Doughty, but he did not say it had come from any one of that name. We must cast about to see where he could have obtained that knowledge, unless he was the real Roger Tichborne. That matter we shall consider presently. He does not appear to have said a word as to any Doughty relation of his; he never mentions his uncle Sir Edward, nor his aunt Lady Doughty, but he did undoubtedly mention the name in connection with property which had recently come to the family from a relative. When we come to look at his entire account, we shall find there is a serious *per contra* on the other side. For in

stance, he tells Mr. Gibbs he was born in Dorsetshire at his father's seat, called The Hermitage, and speaks of that seat as one which had belonged to his father and at which his father had resided. Not only had Mr. James Tichborne no seat in Dorsetshire, and still less a seat called The Hermitage, but he never had a residence in this country during the whole period of Roger Tichborne's stay in it. He was the third son, and had no landed property, no seat, no residence here. Besides that, the defendant told Mr. Gibbs he had property consisting of a terrace or crescent of houses at Cowes and Ryde. We know that the Tichborne family had no property either at Cowes or Ryde. So much for positive statements. Let us now look at what is omitted. Up to this time, in these conversations with Mr. Gibbs, he makes no mention of his life either at Stonyhurst, where Roger Tichborne was for three years, or of his having been in the army, which he afterwards denied. These are very striking omissions, because those epochs are the most important in Roger Tichborne's life. It is plain we have a most extraordinary medley of ignorance and knowledge. Let us see whether there were any sources of information open to him.

As early as 1863 we know that Roger Tichborne was advertised for in *The Times*. We know that Lady Tichborne advertised in *The Times* in three languages. The advertisement in the Spanish language communicates rather more than the others, but what it told fell far short of the knowledge the defendant exhibited. It stated that Roger went on board of the *Bella* at a certain date, that the vessel was lost, and that there were hopes that Roger might have been picked up. There was nothing about the Tichborne property, the name of Doughty, or the second son, or the two daughters; but he had another source of information. There was a man named Slate at Wagga Wagga in humble circumstances, but who is described by Mr. Pettit Smith as a man of very superior education. We know that in the ups and downs of this life we find men, especially in the colonies, where so many persons who are driven out of this country by one circumstance or another, find a refuge, who have seen better days; and this appears to have been the case with Slate. Well, Slate, as a Hampshire man, may have had, and particularly if he had moved at all in a better sphere of life, considerable knowledge of Hampshire families, and may have known about the Tichbornes. He may have heard, as a sort of local gossip, that they had property in Dorsetshire, and it is possible he may have seen the undoubted Roger himself. It is possible, too, he may have been struck by the likeness between the defendant and Roger. I do not find from the defendant's statement that Slate ever professed to have known him or identified him. It is now evident that he took some interest or other in the history of the Tichborne family and in the discovery of Roger, because the defendant himself tells us that it was Slate who first called his attention to the advertisement Mr. Cubitt caused to be inserted in the Australian papers. Slate had gone from Wagga Wagga with a lot of cattle to Melbourne. The defendant was prevented going, and Slate went in his place, and he brought back in his pocket a Melbourne newspaper with the advertisement in it, and drew the attention of the defendant to it; and nothing would be more natural that the advertisement so produced would have been the subject of conversation between

them. The inference I draw from it is this—that Slate took an interest in the matter, and that that interest arose in all probability from his having some knowledge of the Tichborne family. I do not think that that is an unjust or unfair inference to draw.

But there was another source from which information may have been derived—it is, however, merely speculative—namely, from the statements made in the *Illustrated London News*. We know that that journal was taken in at the Mechanics' Institute at Wagga Wagga, and the defendant, as a man of intelligence and being able to read, may have gone there. The first things that attract one, I am afraid, learned and unlearned, are the pictures; and they were very likely the first things the defendant would look at. One of the specialities of the *Illustrated London News* is the obituary, in which an account of the death and a narrative of the history of every distinguished person is inserted. On the 18th of March, 1863, the death of Sir Edward Doughty is recorded. I do not think it likely that that copy of the journal in question ever passed into the defendant's hands; although it is possible that with a view to obtain information in reference to the family he may have turned back on the file and seen it. It is a remote probability. The notice of that date says:—

'Sir Edward Doughty, Bart. This gentleman, the heir-male and representative of the old and eminent family of Tichborne, of Tichborne, seated in Hampshire before the Conquest, died on the 5th inst., aged 71, at his seat Tichborne-park, near Alresford. He was the third son of Sir Henry Tichborne, the sixth baronet by Elizabeth Lucy his wife, daughter of Edmund Plowden, Esq., of Plowden. In 1826 he succeeded at the decease of the late Miss Doughty, of Snarford-hall, Lincolnshire, and of Richmond-hill, Surrey, to that lady's extensive estates, together with her property in the neighbourhood of Russell-square, including Doughty-street, &c., and assumed in consequence the name of Doughty. In 1834 he served as High Sheriff of Dorsetshire, and in 1845, by the death of his elder brother, the late Sir Henry Tichborne, without male issue, became baronet of Tichborne. Sir Edward married, June 26, 1827, Katharine, daughter of James Everard, ninth Lord Arundell of Wardour, and had one son, Henry, who died in youth, and one surviving daughter, Katharine Mary Elizabeth Doughty. The present inheritor of the title and estates is Sir Edward's only surviving brother, now Sir James Francis Tichborne, ninth baronet. He is married to Harriette Felicita, daughter of Henry Seymour, Esq., of Knoyle, Wilts, and has two surviving sons, Roger Charles and Alfred Joseph.'

Now, I do not think it is at all likely that the defendant ever saw that. But that observation does not apply to the *Illustrated London News* of the 21st of June, 1862, which records the death of Sir James Tichborne, Roger's father. It contained the following notice:—

'Sir J. F. Doughty-Tichborne, Bart. Sir James Francis Doughty-Tichborne, tenth baronet of Tichborne, Hants, was the fourth son of Sir Henry Tichborne, the seventh baronet, by his wife Elizabeth Lucy, eldest daughter of Edmund Plowden, Esq., of Plowden, in the county of Salop, and his wife Lucy, daughter and co-heir of William Thompson, Esq., of Fynton, Oxon, and grand daughter of Sir Berkeley Lucy, Bart. He was born on the 3rd of October, 1784, and succeeded

as tenth baronet, on the 5th of March, 1853; his brother, Sir Edmund Tichborne, the ninth baronet, who assumed the surname of Doughty in 1826. On succeeding to the estates of his relative, the late Miss Doughty, of Snaresford Hall, Lincolnshire, and Richmond Hill, Surrey, Sir James Francis Tichborne, the subject of this notice, obtained, in the May, after his accession to the baronetcy, a Royal licence for himself and his heirs to bear the name of Doughty before that of Tichborne. He married, the 1st of August, 1827, Harriette Fellicita, daughter of Henry Seymour, Esq., of Knoyle, Wiltshire, and had issue two sons, the elder of whom, Roger Charles, was lost at sea, off the coast of South America, in 1854, and two daughters, who both died young in Paris. Sir James died at his seat, Tichborne Park, Hants, on the 11th inst. He is succeeded by his only surviving son, now Sir Alfred Joseph Doughty-Tichborne, the 11th baronet, who was born on the 4th of September, 1839, and married, the 17th of April, 1861, Theresa Mary, eldest daughter of Henry Benedict, 11th and present Earl Arundell of Wardour. This very ancient Roman Catholic family of De Tichborne, or Tichborne, was of importance in Hampshire before the Norman Conquest, and we hear of the De Tichbornes as knights and men of position, and prominent in the reigns of the early Norman kings. They were staunch cavaliers under the Stuarts. When Queen Elizabeth died, Sir John de Tichborne, Knight, then High Sheriff of Hampshire, at once proclaimed King James I. The monarch marked his sense of this signal service by knighting Sir John's four sons, and conferring on himself the Castle of Winchester in fee-farm, and the dignity of a baronet, the 8th of March, 1620. From this Sir John the baronetcy has descended through a long and loyal line of cavaliers and worthy gentlemen to Sir James Francis, the baronet just dead, and his son and successor, Sir Alfred Joseph Doughty-Tichborne, the present baronet.

Now, gentlemen, if that publication was ever seen by the defendant or by Slate, it would convey the knowledge of several facts with reference to Tichborne—such as that the name of Doughty had been assumed by Sir James, and two daughters had been born in France, but it would leave the reader in ignorance of the fact that the sons were born there also. It would further convey the information that there had been two ways of spelling the name Tichborne, one with 'u' and the other with 'o.' Whether the knowledge displayed by the defendant grew from any perusal of this obituary you must form your own opinion.

A Juror.—It would have given information of his mother's Christian name, which he subsequently mis-stated.

The LORD CHIEF JUSTICE.—Certainly it would. I was going to say so. But the observation which presented itself on the other side is this:—Supposing it to have been carefully studied, so as to carry away all the facts in the memory of the person who studied it, one would have supposed he would have had more information than the defendant appears to have had. It is for you to consider whether it is not possible that a man may not have borne everything sufficiently in mind to be able at a moment's notice when asked questions, to reproduce it.

Another Juror.—According to another part of Mr. Gibbs's evidence, at the time when the defendant made his will, he said he knew what was

going on in England, as some one had kept him informed from England.

The LORD CHIEF JUSTICE.—I am aware he did, but I do not attach much importance to that, for if he had any such source of information he would have known more than he did. There are many things his ignorance with respect to which we can only account for, if he be Roger, by supposing that his memory most signally failed him. If he had any such information as he spoke of he would have been better informed than he evidently was.

Gentlemen, I now come to the correspondence between Mr. Cubitt and Mr. Gibbs. You remember that, in his last letter to Mr. Cubitt; Mr. Gibbs, to use his own words, expressed his belief that he had 'spotted' the right man. Writing, again, on the 25th of November he says:—

'Wagga Wagga, Nov. 25, 1865.'

'My dear Cubitt,—I told you in my last that if the necessary funds and something to leave behind could be got I could send on the missing man at a very few days' notice, but that I had promised not to reveal the secret before the end of March next. He is so far changed from his original intention that he is anxious to go, but that his present identity must be totally disconnected from his future. I suppose you received my letter acquainting you with the certainty that he is really Roger Charles Tichborne.

'Yours, &c., 'WM. GIBBS.'

Mr. Cubitt replied on the 29th:—

'Bridge Street, Sydney, Nov. 29, 1865.'

'My dear Gibbs,—I shall be prepared, so soon as the next mail arrives from England, in the event of receiving advices from Lady Tichborne to make all necessary advances, not only to get Mr. Tichborne to Sydney, but also to send him home, and at the same time, as in a previous letter I expressed a wish that this should be a business transaction, to compensate you for the assistance you have given me in this matter. Of course, while I am desirous of carrying out your wishes as to secrecy, you must bear in mind that I, as well as yourself, must be satisfied that I get the right man.—Yours truly, A. CUBITT.'

To Lady Tichborne Mr. Cubitt wrote as follows on the 21st of December:—

'Sydney, Dec. 21, 1865.'

'Madam,—Your favour of October 17 is only now to hand, and the few hours left me to reply compel me to be as brief as possible. My previous correspondence will have convinced you of the perseverance with which I have instituted the search, and the care with which I have made my reports will be sufficient to assure you that I was most anxious to avoid stating anything that the facts did not justify. You will therefore not fail to put credence in my present statement that Mr. Roger Tichborne is alive and well, and that he is now in this colony within 600 miles of Sydney, and that it is my intention to proceed at once to his place of abode, and to the best of my ability carry out all your wishes. While you might not have been able fairly to estimate what would have been a proper compensation in the event of my search proving successful, I must say that I did expect a draught by the mail at least to pay the great trouble and expense I have already been put to, especially in the face of the fact that I might have had to make a voyage to New Zealand and back, and I trust that this intimation will be sufficient to secure me without further delay

compensation in part. From circumstances that have come to my knowledge I agree with you that it is necessary I should accompany your son to England or to Paris, but if this can be averted I have no desire to put you to the additional expense of my passage to England and back and the remuneration that would have to be made to me for loss in my business during my absence. As to the ultimate reward, I understand by your letter that in the event of success this is to be paid out of the estate, and that in the event of failure I am to look to you for the expenses contracted upon this inquiry. Mr. T. will not publicly reveal his own name, and when he leaves here will do nothing by which the public prints will be aware of his departure hence, or in England of his arrival. Here, so far, the secrecy you desire will be maintained, and I see no difficulty in the way of confining all this business to the parties interested. Your son's circumstances are of such a character that he has not even the means to come to Sydney, much less outfit and passage-money. This will all have to be provided by me. A letter from you to your son I shall be glad to deliver personally.—Yours, &c.,
‘A. CUBITT.’

Gentlemen, we have now brought this story down to the end of the year 1865. At this period the defendant had made up his mind to come forward as Sir Roger Tichborne and to return to England to prosecute his claim. Mr. Cubitt wrote to Mr. Gibbs on the 10th of January:—

‘Sydney, Jan. 10, 1866.

‘Dear Sir,—Letters of a most important nature having been received by me from Lady Tichborne, it becomes a matter of necessity that I should at once have a personal interview with her son. I therefore beg you will be kind enough to send him on to Sydney.—Yours, &c., ‘A. CUBITT.’
Mr. Gibbs replies on the 13th:—

‘Wagga Wagga, Jan. 13, 1866.

‘Dear Sir,—I received yours this morning, and making instantly the necessary inquiries, discovered that Sir R. C. T. has left his last place of abode. He has lately shown signs of restlessness, but I think that he has not gone far as yet. As for my showing him to you, mature reflection has shown me that to be out of the question without his consent, even if I could at present, as after the present lapse of time I should feel myself justified in claiming, on behalf of the real discoverer, the reward. I should wish to know if the letters you have received from England give anything definite. As I told you, the amount should not be less than 200*l.* or 250*l.* That amount I am willing to divide equally with you. You need not expect T. to start unless he can leave some money behind for the person I spoke of. I found on observation his nose is not aquiline, but straight; his eyes nearly grey (they change from blue in after-life); mouth rather narrow, with a retreating expression, subject formerly, and still partially, to the nervous twitch termed St. Vitus Dance. In case you may deem it desirable to send this letter home, it may be gratifying to his relatives to know that, low as he has descended in the social scale, his character for honour has stood unimpeached. Have you told Lady T. of the pipe with his initials on it?—
‘Yours truly,
‘WM. GIBBS.’

Well, on the 17th of January the defendant announced to Mr. Gibbs that he wished to write to Lady Tichborne, but not having written for so long a time he did not well know how to begin. To this Mr. Gibbs replied that he would draught a letter for him to copy, and accordingly he sat down and commenced with a formal ‘My dear

Madam,’ more like a letter to a client than one from a long-lost son to his mother. The defendant had too much shrewdness and sagacity not to see that that would not do, and he at once said ‘Oh, she will know that that is not my style;’ so he took up the pen, saying ‘she will know my old way and my handwriting,’ ‘I asked him,’ said Mr. Gibbs, ‘whether he wrote the same hand as he did when he last wrote to his mother,’ and he replied ‘that he wrote better—but I am not sure whether it was better then or now.’

The letter is accordingly written, and I call your attention to it. You have before you letters of the undoubted Roger, and I invite your careful and vigilant attention to the various matters of handwriting, spelling, and style in the one set and in the other—making allowance for the interval of 12 years, and the life the defendant had been leading during the interval. You will compare that one style with the other, and say whether in that style, in the tone and spirit and thought, in the composition, grammar, and spelling of the respective letters, you can find identity or similarity between the one and the other, or whether a different spirit is not breathed in the one as compared with the other, a different style manifested—whether everything is not different that characterizes letters written by one man and distinguishes them from letters written by another. Here is the letter:—

‘Wagga Wagga, Jan. 17 66.

‘My dear mother,—The delay which has taken place since my last letter, dated 22d April 54 Makes it very difficult to commence this Letter. I deeply regret the trouble and anxiety I must have caused you by not writing before. But they are known to my Attorney and the more private details I will keep for your own ear. Of one thing rest Assured that although I have been in a humble condition of Life I have never let any act disgrace you or my Family. I have been a poor Man and nothing worse. Mr. Gibbs suggest to me as essential That I should recall to your Memory things which can only be known to you and me to convince you of my Identity. I dont thing it needful My Dear Mother although I send them Mameley the Brown Mark on my side And the Card Case at Brighton. I can assure you My Dear Mother I have keep your promise ever since. In writing to me please enclose your letter to Mr. Gibbs to prevent unnecessary enquiry as I do not wish any person to know me in this Country. When I take my proper position and title Having therefore made up my mind to return and face the sea once more I must request to send me the means of doing so and paying a few outstanding debts. I would return by the Overland Mail. The passage Money and other expences would be over Two Hundred pound, for I propose Sailing from Victoria, not this colony And to sail from Melbourne in my own Name. Now to annable me to do this my dear Mother you must send me’—

The rest of the letter is not forthcoming. With reference to his statement that he had never let any act disgrace him, it should be remembered that he avoided answering questions put to him in reference to bush-ranging and other matters by saying the answers would tend to criminate himself. It should, however, be stated in his favour that during the time he resided at Wagga Wagga he was a well-conducted man, and secured the respect of his employers and of all who knew him. The way we come to have the letter and so many others is this, that the defendant, claiming to be the next of kin to Lady Tichborne, took

possession of her papers, which included many letters from the undoubted Roger, but, his claim being disputed, he was directed to lodge all the papers in the Court of Chancery, and so we have them. It is clear from the reply that there was some mention of his grandfather in the missing part of the letter, and also of a horse called Plenipo, which he said he left in this country. Now he did leave a horse in care of Mr. Gosford, but it was, he states, not so called. There is evidence how that Mr. Johnston, of Newburn-park, had sold a horse of that name.

Mr. Gibbs wrote also to the Dowager Lady Tichborne, stating that her son, though occupying a humble position, had never done anything to disgrace himself, and in reference to his own position he adds, 'I am as well born and connected as your own son.' Well done. Mr. Gibbs! Mr. Cubitt then takes up the correspondence and applies to Lady Tichborne for the funds necessary to send the defendant home, reminding her that she had not furnished any facts or particulars by which her son's identity could be set beyond doubt. In answer to a former letter of Cubitt, who asked Gibbs to have the defendant come to see him, the latter writes that Sir R. C. Tichborne would not see anybody. On the 15th of February Mr. Cubitt, in writing to Lady Tichborne, complains that an attempt was being made to deprive him of his emoluments in connection with the matter, and he reminds her that it was by his instrumentality alone that the discovery had been accomplished. And now comes the following letter from Lady Tichborne:—

'February 15, 1856.

'My dear Sir,—Your welcome letter reached me only yesterday. I had been anxiously expecting it. I only regret that there are no more details about my dear son's circumstances, and I feel much grieved at the idea that they may be very bad. I am anxious to know more about it. The only thing is that if Roger would consent to say who he is to a banker I am almost certain the other would advance him money. My opinion is, and also my wish is, that you should go immediately to speak yourself to my son and arrange the things personally with him, so that you may start to come to join me immediately. A thing of that sort ought to be done instantly, and without losing a moment in deliberations, as if Roger has contracted some intimacy there they will perhaps do everything in their power to keep him there and prevent him coming over to me. I think it will be necessary that you should accompany him till you have brought him safe in my hands; that is, I think, absolutely necessary. I am going to send you a cheque for 40*l.*, which I will ask Mr. Callaghan to forward to you, as I suppose he knows some bankers at Sydney. You will have money enough, and send even more than you want, to go to see my son, as I am told conveyances are not so expensive there as in England, as Mr. Callaghan will advance me the money, and more if necessary. I find it necessary to tell him my object in sending money over to Sydney. He is a friend of the family, and knows all about my son and his very strange disappearance.

'The secret that I wish to keep is only of course till I can either speak or write to Roger myself, and my reasons for doing so you would very well understand if I was to mention them in this letter; but of course the secret (evidently meaning secrecy) that I recommend will only be for five or six months; but as for the reward and all the expenses, you need not have a doubt as to its being

paid. There will be amply to pay back all the expenses. The difficulty is for the present, as my means are small and very different, of course, from the income that Roger has a right to since he was unfortunately with his poor father. Had he been there he would have come to an income of at least 12,000*l.* a year, and even twenty; besides that it will increase later. There has been, of course, difficulties after his dear father's death; however, when he comes he will have a very fine income; therefore it is something wonderful to me his remaining hid under a feigned name. I do trust and hope that you will succeed in bringing him over to me as soon as possible.

'There is a man of colour at Sydney who could tell you how the family stands. His name is Bogle, and is quite black; Roger knows him very well; he was valet to Sir Edward Doughty, uncle to Roger, and he lives now at Sydney. Sir Edward Doughty Tichborne left him 50*l.* a year, and with his savings he can live at Sydney, he says, pretty well. I do not know his address at Sydney, and only know he lives there, but I am afraid that man, as soon as he has seen Roger, will write it back to England immediately, and I am afraid of the consequences, which would be bad if not attended to. I am very sorry indeed that you did not go over to my son as soon as you received my last letter, as, letters being so long a time coming, it makes that business go very slowly. Still, you may easily conceive how desirous I am to see my son. I believe I said in my last letter everything that can be said on the subject, and I beg you to be so good as to read it over again. I will again remind you of the necessity to ascertain whether Roger has some particular intimacy, or whether he is married and has children, it is a very necessary thing to know. I will write a letter to him. You will be so good as to give it him, and ask him, was it only for our own personal satisfaction, to answer it immediately.

You will see, gentlemen, there is nothing in this letter from beginning to end by which her son could be identified. Well, time goes on, and in the month of March we find the defendant in very serious difficulties. He was apparently doing nothing, and was without funds. Here are two of his letters to Mr. Gibbs:—

'Dear Sir,—If you could spare me two pound I shall feel obliged. I wish to settle with Cater, the baker, before he leaves for England. If its convenient, you can Likewise send me an order on Love for three pound.—Yours truly,

'R. C. TICHBORNE.'

Then there is another letter:—

'Sir—*'Wagga Wagga, March 14.*
[This word and some others are barely legible]. My — for writing instead of seeing you personally. I am really ashamed of troubling you so often. Your kindness to me. Will be remembered more than a Medal of Honor on my breast. What I wish to consult you about is this — my being idle is drawing remarks from many. And what to do I do not. I don't wish to leave the Town before we receive our letters from Mother, which I hope will not be long first. But how to live in the mean time is what troubling me. I paid the Baker with part of the Cash, you were so kind as to lend me. I do not wish to impose on your good nature for more cash. But what I wish you would do is to speak to one at the storekeepers to let me have what necessities I would require for the House. If you think you could do so with safety, I would rather it be Mr. Forsyth, if anywhere I expect Mrs. Castro H

be confined before Saturday And believe me Sir I am more like a manick than a B. of B. K. to think that I should have a child born in such a hovel.

'I remain, Dear Sir, your

'Truly,

'ROGER CHARLES TICH-
'BORNE.'

We have here, as it were, the culminating point in the 12 years' life of the defendant in Australia. He had led an unsettled life without house or home, had followed servile employments, made attempts in trade which had ended only in failure, and the result of all this was distress, penury, and privation. We naturally ask—for we cannot avoid the question which forces itself upon us—'How can we understand a man of rank and position, and with all the means of affluence at his command, thus inflicting on himself self-imposed exile, penury, and privation?' The theories of the learned counsel for the defendant on this subject are hardly worthy of criticism, they are nothing better than the bubbles blown by a child in sport. What the defendant says is this—'I made up my mind not to return to England while my father lived.' He is asked why, and he declines to answer. The notion of a quarrel has been entirely given up; he never had any quarrel with his father. However, it is just as well you should know what he says on the matter. In the first place, when questioned on the subject by Mr. Chapman Barber, he says he won't tell him. The latter inquired whether the defendant had any quarrel with his father, to which the defendant answers, 'You had better leave that out; I decline to answer. I won't answer the question.' Again he is asked, 'Had you any quarrel with Lady Tichborne?' His reply is, 'I decline to answer that question.' When, under cross-examination, he is asked whether he had any quarrel with his mother, he says he had not. And then he is asked why, when in examination before Mr. Roupell, he had declined to answer. His reply is, 'I decline to answer because there are few sons that do not have quarrels with their mother.' Then he is asked, 'Why did you say "No"?' and his answer is, 'I don't know, I'm sure, only that I did say "No." I thought it a very impertinent question.' Why, gentlemen, it was a most natural question to ask of a son who had been 12 years absent from his family. In another place he says he had no peculiar reason for what he had done. He said he was glad to get down into the country, and there are not there the same conveniences as in England. In answer to the Lord Chief Justice he says he had no reason. That, of course, disposes of the notion of a quarrel. The only other reason he gave was this:—Mr. Gifford asked him whether, when he went abroad, he had made up his mind not to return as long as his father lived. He said that was so—that his home was an unhappy one to him, and that he was determined not to return as long as his father was alive.

Now, gentlemen, I would here call your attention to the correspondence of Roger from South America, and in it there is nothing to show that he did not intend to return during his father's lifetime. He certainly said he would not go back to Tichborne to live, but there was no passage in those letters which implied that he did not intend to return to England while his father lived. But let us for a moment assume some such idea had taken possession of Roger Tichborne's mind. Suppose for a moment that Roger landed in South Australia, and that when he sought to take service or find occupation there he said he would not

return to England so long as his father lived. From 1854 to 1866 is a period of 12 years. How long did he expect his father to live? The age of man is threescore years and ten, and but one in 100 lives to fourscore. There are happy organisations and vigorous constitutions that live longer. One of many hundreds lives to 90, and one in many thousands to 100. These are exceptions. Now when the defendant, if Roger Tichborne, landed at Melbourne, Sir James Tichborne was within three months of threescore years and ten, the usual span of human life, and when he died on the 11th of June, 1862, he had arrived at the good old age of 78 years. At that time the defendant, if Roger Tichborne, was engaged in the hard service of riding postman between Boree and Miranda, and within a month or two he was foreman to Mr. Higgins in his butcher's business. At that time the undoubted Roger Tichborne was entitled to estates worth 20,000*l.* per annum. Can any one understand how a man would voluntarily remain in such a position as the defendant was in without ever taking the trouble to inquire what had become of his father? Do you suppose the man could have had so little affection for his father that he would make up his mind he would never see him again, that he would not care to receive that which most sons would desire to receive, the parting blessing of his father before he died? You may easily imagine that a man having such sentiments as these, and caring very little about his father, would not weary Heaven with prayers to grant his father an unusual degree of longevity. On the contrary, he would keep a keen look-out for his father's early death. Roger Tichborne was entitled to an income of 1,000*l.* a year during his father's lifetime; do you think he would be careless whether his father lived or died, or regardless of the position and rank which the possession and ownership of the estates would give him? You are to consider, gentlemen, whether eccentricity or any other motive may have led the defendant to adopt this course. You are to consider whether it is a satisfactory explanation that, not caring whether his father was alive or dead, he was led voluntarily to embrace a life of this sort, to renounce fortune and all the enjoyments which it brings, and to continue to adhere to the life to which he had given himself up, and that in truth he was only dragged from his obscurity and retirement and induced to take his proper position by the interposition of Mr. Gibbs. You must consider whether this is a solution which would recommend itself as satisfactory to your minds.

On the 19th of March the defendant's wife was delivered of a daughter, and he writes to Mr. Gibbs to send him 2*l.* under cover by the bearer of the note. There is another somewhat remarkable circumstance. A man named Cater, a baker of Wagga-Wagga, was about to go to England, and he receives from the defendant a letter endorsed 'To be opened at sea.' It is dated Wagga-Wagga, April, 1866. This is the letter:—

'At any time when you are in England you should feel inclined for a month's pleasure to go to Tichborne, in Hampshire. Enquire for Sir Roger Charles Tichborne, and you will find one that will make you a welcome guest. But on no account mention (*sic*) the name of Castro, or allude to me being a married man, or that I have being (*sic*) a butcher. You will understand me I have no doubt.—Yours truly, 'THOMAS CASTRO.'

'I sail by the June mail.'

Now, it is plain from this letter, as well as

from the evidence of Gibbes, that the defendant desired to conceal two or three things, one that he had gone by the name of Castro, another that he was married, and the third that he had been engaged in the butchering business. When he first contemplated taking the name of Roger Tichborne he intended to leave his wife behind and conceal his marriage. What could be the motive for concealment in these respects? No doubt it would be at first sight a strange thing that a man of rank and fortune should become a horse trainer, a stockkeeper, or a butcher. But as long as a man pursues an honest calling, there is nothing disgraceful in it. But it may have struck the defendant that it would be desirable to leave the colony without having it known that he, a man of rank and position, had condescended to those courses of life to obtain the means of existence. Or he may have thought that Lady Tichborne, with all her anxiety to recover her lost son, might be staggered by knowing all the circumstances of his life; but, by the way, she was not. Again, in all his wanderings, if persons who had known him by the name of Castro or some other name had also known that he had gone by the name of Orton, they might prove troublesome to him, and perhaps denounce him as an impostor. On the other hand, his desire for concealment may have arisen simply from a feeling of pride. He might say to himself, 'I do not choose, when I take my position as Sir Roger Tichborne and appear in the world again as a man of fortune, that anybody should know that I condescended to employments incompatible with the station to which it pleased God to call me.' It might be false pride, but as Roger Tichborne he might think that these things, if known, might militate against his being received by the world. Then with respect to his marriage, it appears plain from the letter to Cater that he wished it should be concealed. He might have thought that if known it would detract very much from the credit people would give to the assertion that he was Roger Tichborne. But, on the other hand, if this consideration was thus present to the mind of Roger Tichborne at this period, it would naturally have suggested itself at the time when he made this marriage. He might have supposed that such a marriage would indispose Lady Tichborne to acknowledge her son, and so he might have wished to conceal it from her. But though at first he contemplated leaving his wife behind, it seems that when he became a father he gave up the idea and determined to take his wife with him.

At this period Cubitt appears to have thought that the time was come for taking more energetic action in the matter, and that it was necessary to stir up Gibbes, so he writes to him on the 18th of April, saying that he was anxiously expecting to hear about Lady Tichborne and receive the promised reward. 'I have promised you,' he says, 'your share of the spoil, and as we are both interested we must both work together.' But Gibbes, who has got the man in hand and is master of the situation, is by no means inclined to hand him over to Cubitt. On the contrary, he is determined that the honour of restoring him to his mother will be all his own. So he writes to Cubitt, leading him to suppose that Roger Tichborne was not then residing at Wagga-Wagga, but at some distance from it. Cubitt was not pleased with Gibbes's communication, so he writes on the 2nd of May complaining of want of candour on Gibbes's part. And now come two letters from Lady Tichborne—one to Mr. Cubitt and one to

the defendant, which certainly deserve the most careful consideration. They were written prior to the receipt of the letter written by the defendant on the 17th of January. She had received from Cubitt the assurance of his conviction that her son was found, and also the letters from Mr. Gibbes in which he said he had 'spotted' him. The first is a letter marked by the most perfect prudence and sound judgment. The mother was very naturally most anxious to find her long-lost son, but still we find her requiring proofs of his identity before she rushes into action. This is the letter to Mr. Cubitt:—

'25th February, 1866.

'My dear Sir,—I did not answer your letter immediately as I wanted to arrange with my banker, Mr. Callaghan, how to send you 40*l*.; but he has no correspondent at Sydney. I cannot send more at present, but I repeat once more that you cannot have any doubt as for what regards the payment of the promised reward, which will be very handsome, and in proportion with the very great happiness I shall have to see my beloved son again. But that reward will be paid out of the estates. At the same time you cannot wonder if the money is not paid beforehand, the more so as you do not give any details whatever about the person you believe to be my son. You do not name even the town where he is, and you do not say anything about the way he was saved from the shipwreck. I cannot do more at present, but later, when the things are explained to me, and when I know more about my son, of course the money will not be wanting. But now you have not said anything at all about my son, and I hardly know anything of the person you supposed may be my son. I will send you a letter for him, and I shall expect an answer from him, as I know his handwriting well. I shall know at once whether it is him. In hopes to hear soon from you, and also in hopes to hear more details about my beloved son, I remain sincerely yours,

'H. F. TICHBORNE.

'I will ask you to be so good as to read my last letter over again. I believe I said all that could be said on that subject. It is necessary to know whether Roger is married, and whether he has children.'

This is a very sensible letter. She says in effect, 'You ask me for money. I send just enough to enable my son to go to Sydney; but you have not given me any information about him, not even the details of the shipwreck, and I must have these details before I do more. Now, it is difficult to understand how a lady who wrote such a letter, marked with such strong common sense, could, on the very same day, and probably with the same pen, have written to the defendant acknowledging him as her son, and addressing him in the most endearing terms. This is the letter:—

'Paris, 25th Feb., 1866.

'My dearest and beloved Roger,—I hope you will not refuse to come back to your poor afflicted mother, who is still living. Jusqu'à ce moment je n'ai jamais perdu l'espérance de le revoir. I have had the very great misfortune to lose your poor dear father, and lately I have lost my beloved son Alfred. I am now alone in this world of sorrow, and I hope you will take that into consideration, and that you will come and join me as soon as possible. You need not be afraid about the money; only come and see your poor old mother. Remember the promise you made to your dear father before you went away, that if God so willed, you would come back and be with him to Himself, you would come back and be

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mother's protector. I have lately lost my beloved son Alfred, and I do hope you will come back. Write and give me some details about yourself. You know that if a banker knew who you were he would advance the money for you at once. If you will not do that, let me send the money in safety; but that will be the longest way. And now, adieu, my beloved son, my dearest Roger. Write to your fond mother, who is thoroughly unhappy at the losses she has had to bear, and whose only happiness and consolation will be to see you again.—Your own mother, H. F. TICHBORNE.

Here there is the most unqualified acknowledgment of this supposed son. I could readily conceive from the information she had received from Cubitt and Gibbs she should have written that letter to acknowledge her long-lost son. But I own I am puzzled to account for the fact how she could at the same time have written to Cubitt saying 'you have not given me any details.'

Well, the letter that was written to Mr. Cubitt is sent to Gibbs, who takes it to the defendant, and Mr. Gibbs gives us some account of the scene which then arose. Much was attempted to be made by the learned counsel for the defendant of what occurred when the defendant received this letter from his mother, the first for many years, conveying the intelligence of his brother's death. He said it caused in the defendant powerful emotions, which was manifested by him in tears. Mr. Gibbs, in cross-examination, says—'When he read it, his eyes filled with tears. I won't say his eyes filled with tears, but they looked as if they were watery. As you may well imagine, you don't stare at a man in that case, you rather look away from him.' And again—'I won't say that his eyes filled with tears, but they appeared to have water in them.' In answer to Dr. Kenealy, he says he believed the defendant's sorrow was genuine. And here, in connection with this matter, I must really denounce it as a mere pretence to say that it was only when the death of his brother became known to him that Mr. Gibbs pressed him and obtained his consent to return to England. He had made up his mind to go home in the previous November, and had made preparations for it early in January. Therefore, to suggest that it was only in consequence of hearing of his brother's death that he consented to go home, is, as I have said, a mere pretence.

Now, gentlemen, before we quit this part of the subject, I want you to consider when it was that the defendant first conceived the design of coming forward as the lost Roger Tichborne. When Mr. Gibbs first went up to him and said, 'You are not going under your right Christian name and surname; I know who you are; the initials on the pipe discover you,' Mr. Gibbs tells us he was hugely disgusted. The defendant also tells us that he told Mr. Gibbs to mind his own business, and not to interfere with him. Now was this language simulated or real? Was he in earnest in representing himself as annoyed or distressed, or, to use Mr. Gibbs's strong expression, was he 'disgusted' at this discovery, or asserted discovery? A good deal of light will, I think, be thrown upon the case from the view that may be taken one way or the other of this matter. It may have been the honest expression of his sentiments. He may have had no desire to return to his own position. He may have been satisfied with the life he was leading in the humble condition he had voluntarily reduced himself to. But it may have been dishonest. It may have been that he put on the pretence of this reluctance to

be dragged into the light as Roger Tichborne, instead of remaining in the obscurity he had sought. But then it has been said to retire from the world seems hardly consistent with the earnest zeal with which he has sought to recover his alleged rights, both of rank and of fortune, from the moment he came forward. Because no one has been more strenuous in asserting his claim, and none more indignant, apparently, with those who, professing their disbelief in it, have stood in the way of that claim being enforced. And to this I must add the observation that if his reluctance to be discovered and put before the world as Roger Tichborne be real, he would have been more strenuous in concealing the fact that he was Roger. There was no necessity for acknowledging the fact to Gibbs at all, and we don't find in the character of the defendant that scrupulous and nice regard to truth which would have stood in the way of his telling Gibbs a falsehood.

But even suppose he did not choose to deny the fact, what was there to compel him to return? He was not like a school-boy who had run away from school, and might be brought back again, or like a criminal who had escaped and might be dragged back to his fetters; and we know what the inflexibility of Roger Tichborne was. Here it is that an acquaintance with the character of Roger Tichborne comes into play. Do you suppose that Roger Tichborne, who never followed anybody's advice, who always acted upon his own will and determination, if he had chose to follow the life he had chosen in Australia, and any person told him his mother was anxious that he should go home, would not say, 'I won't go home to my mother. My mother always made my home a hell upon earth.' And we know in one of the last letters that Roger Tichborne wrote from South America he says he will never live with his mother. Therefore, there is no reason to suppose that he was induced to come forward on Mr. Gibbs's representations. But his reluctance may have been real, for this reason—not that he did not intend to come forward as Roger Tichborne, but that he was not yet prepared to take that step. To press his claim to the title and estates required no small degree of courage, and perhaps he had not yet braced his nerves to take that step, which, once taken, could not be withdrawn from. It may be, too, that this claim, though in embryo in his mind, had not yet fully developed itself. Or it may be that, having made up his mind to take the step, he was not as yet fully furnished with the information or the means to enable him to do so. The answer to the Richardson letter may not have been sufficiently satisfactory. If it be true that the defendant had not conceived the intention of coming forward and claiming to be Roger, how do we account for the fact that he himself, as regards outward appearances, did so many things which only Roger Tichborne would have done, unless the man who was coming forward as Roger Tichborne was taking steps to lead people gradually into the belief that he was Roger Tichborne? Why the initials cut on the pipe? Why R. C. T., as he tells us, cut upon trees and any pieces of wood which came to his hands? And this he represents himself as doing for a considerable time. We don't hear that Roger was in the habit of doing that. We have heard in the days of pastoral poetry of shepherds and love-sick swains going about carving on the bark of trees the name of the lady they loved. But persons do not go and cut their own names unless it

be in places which are of much resort. That is not a thing Roger Tichborne would be desirous of doing, especially if he was anxious not to be brought to light.

In adverting to the various circumstances which tend to throw light on the period when the defendant conceived the notion of coming forward as Roger Tichborne, it seems to me that though it may have been in embryo only, the idea had been in his mind for some time. But still, I cannot conceive that he had any definite intentions on the subject until he saw the advertisement, which could not have been earlier than July or August, 1865.

The entries in the pocket-book, though of an imperfect character, are not unworthy of attention in connection with this subject. In that pocket-book we have again that curious hieroglyphic to which I have before called attention—namely, the two O's back to back, though the marks are not so complete as in other cases. In the first page of it we have 'Thomas Castro, Wagga Wagga.' 'R. O. Tichborne, Tichborne-hall, Surrey.' That entry must have been antecedent to the time when he met with Slate, for the latter could have told the defendant that Tichborne was not in Surrey. If he was the real Roger Tichborne, would he have called it Tichborne-hall? It was never called Tichborne-hall, but Tichborne-park; and would he not have known that it was not in Surrey? Then we have 'Melpilla,' 'Buenos Ayres,' 'Rio de Janeiro,' &c. 'R. O. Tichborne, Tichborne-hall, Surrey. Lost 13th September this day, those who find them are welcome to keep them, two cases in the County Court.' Then comes the entry, 'Some men has plenty of money and no brains, and some men has plenty of brains and no money. Surely men with plenty of money and no brains were made for men with plenty of brains and no money. R. C. Tichborne, bart.' Now, I must say that R. C. Tichborne, Bart., had no business to appropriate a passage which does not belong to R. C. Tichborne, Bart., but to Miss Braddon, and still less to change Miss Braddon's language into such unmistakable vernacular as that which he uses. That distinguished authoress sent me a copy of the work, *Aurora Floyd*, in which the passage occurs, which caused me, perhaps, to spend too much time over it, for I read that very interesting novel from beginning to end. She puts into the mouth of one of her characters these words:—'I should think fellows with plenty of money and no brains must have been invented for the good of fellows who have plenty of brains and no money, and that is how we contrive to keep our equilibrium in the universal see-saw.' Very happily expressed! The next is 'Sir James Tichborne.' Then we have 'R. C. T. bart. some day I hope.' Now, would a man knowing himself to be fully entitled to the rank, write 'Some day I hope'? Then there is this remarkable passage, 'R. O. T. arrived at Hobart Town July 4, 1854.' What can have been in the mind of the writer? What can you gather from that? Was it his intention originally to have represented Roger Tichborne as having landed at Hobart Town? I am at a loss to see what else it can mean. And it is curious, too, with reference to the date. There is in the same page 'Stephen Butts Metrop.' It appears that Butts kept the Metropolitan Hotel at Sydney. I don't know whether we must conclude from this entry that it was written at Sydney. Then there is an interesting entry about 'Miss Mary Ann

Loder, 7, Russell's-buildings, High-street, Wapping, London.'

The 'Richardson Letter' was written in April and it seems to have been connected in some way with the defendant's idea of coming forward. Afterwards there was an exhibition of the initials. The question is whether this idea may not have been conceived and been present to the mind of the defendant some time before he really made up his mind to come forward, and whether the action of Mr. Gibbs may not have precipitated matters and hurried them on more rapidly than the defendant originally intended. If he intended to come forward in his real or assumed character, he must have been placed in an awkward dilemma when Gibbs said, 'I know who you are. You are Roger Tichborne.' If he denied the fact the denial might seriously interfere with his pretensions when he did come forward, while, on the other hand, if he admitted it at once he might have been hurried into a course of action for which he was not prepared. Under such circumstances a man would probably not admit the fact for some time. Eventually, however, the defendant surrenders at discretion, and says to Gibbs, 'Yes, I am Roger Tichborne, and I will tell you all about it.' By the end of the year 1865 it should be borne in mind he had got into a most serious position of distress, and was obliged to have recourse to Gibbs for the loan of small sums of money.

There is another fact which ought not to be lost sight of—namely, that when he first acknowledged to Gibbs that he was Roger Tichborne he did so only under the stipulation that Gibbs should not reveal his secret until the ensuing month of March. Why was that? The answer which suggests itself—though I don't know whether it be the right one—is that he was not prepared to come forward. Perhaps he had not got the materials he required for showing that he was the real man, and therefore he wanted as long a delay as possible before presenting himself to the world as Roger Tichborne. The Dowager Lady Tichborne had up to May, 1866, declined in her correspondence with Mr. Cubitt to send any money till she was more fully satisfied of her son's identity. The defendant had sought to borrow money from the Wagga Wagga branch of the Australian Joint Stock Banking Company, which was presided over by a gentleman named Cottie, and while he was negotiating with Mr. Cottie through Mr. Gibbs, he writes this letter to his mother:—

'Wagga Wagga, May 24, 1866.

'My dearly beloved mother,—I received your note dated 25th Feb., and was very glad to hear you were quite well. I was very sorry to hear of poor father and Alfred (sic) death. I Hardly know, my Dear mother, how you have borne the suspense of knowing my fate so long. You must not blame me, mother, for I believe fate had a great deal to do with it. I wrote to you on the 16th Jan., for the first time since I been in Australia. You will wonder why I have not wrote before, But that I will tell you myself, should God spare my life to reach England. I am trying to get away by the Panama route, which leaves Sydney on the 15th June. But I do not know whether the banker here will advance me the Money or not. My attorney has promise to see him this morning. He is a gentleman, and I have no doubt he will advance me the Money —speaking of Mr. Gibbs my attorney, he is my only friend I ever had since I been in Austr

But I will be able to tell you more of his kindness when I see you which I hope please God will not be long. I watched the last Mail when it arrived with great anxiety, hoping to have had an answer from you; but I suppose you had not time to write by the mail. Hoping to see about the 20th August, I remain, your beloved son.

‘ROGER CHARLES TICHBORNE.’

There are one or two peculiarities in the defendant's composition. First of all there is the omission of the final s in the genitive case, and this omission is constantly occurring, and next there is a frequent omission of the auxiliary verb ‘to be.’ Sometimes the words ‘to have’ are dropped in like manner. Another peculiarity is that instead of a comma where it is necessary he puts a full stop. With regard to the sentence ‘You must not blame me, mother, for I believe fate had a great deal to do with it,’ you will doubtless remember the eloquent remarks of the learned counsel for the defendant on that passage. He read it as if it were an extract from the chorus of a Greek play; but if you, gentlemen, can find anything of that sort in it I confess I do not.

Mr. Gibbes and Mr. Cottle were not altogether unwilling to advance money to the defendant, for by this time they had brought themselves to the belief that the party with whom they were dealing was the real Roger Tichborne. It was possible, however, that the defendant might die, in which case it would be inconvenient to send to some unknown person in England in order to get back the money which had been advanced, whereas the defendant made a will and appointed executors they could always be applied to for repayment. Accordingly Mr. Gibbes insists that he shall make a will and appoint executors; and the defendant, seeing that the money he wants is not to be obtained otherwise, acquiesces in the proposal, and says, ‘Very well, I will make a will. He goes to the office of Mr. Gibbes, who takes his instructions, and drafts the will, which the defendant afterwards executes, and which in these terms—

‘The last will and testament of Roger Charles Tichborne, of Tichborne, in the county of Hampshire, in England, but at present of Wagga Wagga, in the colony of New South Wales, Baronet. I give, bequeath, and devise to my wife, Mary Ann Tichborne, known in New South Wales as Mary Anne Castro (I having married her in the name of Thomas Castro), her lawful dower out of my estates. I give, bequeath, and devise to my mother, Lady Hannah Frances Tichborne, in addition to her dower, the whole of my property in Cowes, in the Isle of Wight. I give, bequeath, and devise to my daughter, Mary Agnes Teresa (she being the issue of my marriage with my said wife), the whole of the Wymmering estate, in Hampshire, in England; and also the property at and near Hermitage, in Dorsetshire, in England, inherited by me from my father, the late Sir James Tichborne; and also my property at and near Ryde, in the Isle of Wight, subject always to the annuity hereinafter mentioned as to the said last-mentioned property; and also all other my property of every kind over which I have any disposing power. And I give and bequeath to Annie Bryant, the daughter of my wife before her marriage with me, the yearly sum, or annuity, of two hundred pounds, to be paid out of the rents and profits of my estate at or near Ryde, in the Isle of Wight, during the term of her natural life, for her sole and separate use, independent of

any husband she may marry, without power of anticipation. And I appoint John Jarvis, Esquire, of Bridport, in Dorsetshire, in England, and Lady Hannah Frances Tichborne, at present of Paris, my mother, executor and executrix of this my will, and in case of either of them being deceased, or unwilling to act, I appoint Sir John Bird, of Hartfordshire, executor in the stead of such executor or executrix so dying or unwilling to act. And I appoint William Gibbes, of Wagga Wagga, solicitor, to be guardian of the persons and estates of my children; and in case of his death or inability to act, I appoint Henry Angel, Esquire, of Dorset, in England, to be guardian in his stead. Given under my hand, at Wagga Wagga, in the said colony (in duplicate), this 1st day of June, A.D. 1866.

‘ROGER CHARLES TICHBORNE.’

‘Signed by the testator, in the presence of us who, in his presence, have immediately after set our names as witnesses, the day before mentioned.’

‘WILLIAM LOVE, Store Keeper, Wagga Wagga.’

‘WILLIAM GIBBES, Solicitor, Wagga Wagga.’

The way in which this document was drawn up was no doubt as follows. Here is Mr. Gibbes sitting at his desk with a sheet of foolscap before him, awaiting instructions. Beginning in the usual formal way, he would naturally say, ‘What do you propose, in the first place, to do for your wife? I presume you will give her her dower.’ I do not know whether the defendant knew what dower meant, but he would say, ‘Yes, by all means, let her have her dower.’ ‘Well, then,’ says Mr. Gibbes, ‘what are you going to do for your mother? I suppose she has her dower out of your father's estate.’ ‘I suppose so,’ the defendant may have answered, although it so happened that she had not, because a wife has no claim to dower in an estate, which is not of inheritance but only for life. Nevertheless, I admit that a man who was not conversant with law might think that any provision made for Lady Tichborne was her dower, and it is true that Sir James Tichborne did make two charges amounting to 2,000*l.* a year on the Doughty property for the benefit of Lady Tichborne during her life. This, however, was not known until after Roger Tichborne had left England. She had no lawful dower, but he assumes that she has. Then Gibbes says—‘What will you give her in addition?’ He replies, ‘I will give her the whole of my property at Cowes, in the Isle of Wight.’ Although, in fact, there was not a brick nor stone nor a clod of earth in the Isle of Wight belonging to the Tichborne family. The next question is, ‘How much will you give your daughter?’ ‘I give, bequeath, and devise to my daughter, Mary Agnes Teresa, the whole of the Wymmering estate in Hampshire, in England, and also my property at Hermitage, in Dorsetshire, in England, inherited by me from my father, the late Sir James Tichborne; and also my property at and near Ryde, in the Isle of Wight, subject always to the annuity hereinafter mentioned as to the said last-mentioned property, and also all other my property of every kind over which I have any disposing power.’ But there was no property belonging to the Tichborne family either at Wymmering in Hampshire or at or near Ryde. When under cross-examination in the Court of Common Pleas the defendant is asked whether he had any property in the Isle of Wight, at Hermitage, or at Wymmering, he answers with the most imperturbable coolness and *sans froid*, ‘None whatever.’ Then he is questioned how he came to speak of property existing which had no existence, and he says in reply that it was wholly—

a fictitious will, and that he did not choose that Gibbes should know what property he had. In the course of his cross-examination he admits that his object in making the will was to obtain money from Mr. Cottie. He is asked:—

‘What was your object in trumping up the will and putting all the contents of it as wrong as you possibly could?—Because I did not choose to give him any information about myself or family. Was the object of your will to give him security?—No, I cannot say exactly to give him security. Did you obtain money from him on the making of the will?—I did. How much?—300*l.* at that time. And how much afterwards?—I think 400*l.* Was it your object to give him a security that would be worthless?—Certainly not; I did not give it to him as a security. What was your object?—To satisfy a whim that he had. What was his whim?—Well, he wished me to do it. What did he say?—In the event of my dying in my return to England, or anything in that way. What was the use of the will?—I never intended it should be of any use. Was it executed, then, in fraud of Mr. Gibbes?—I cannot say in fraud. What was it?—It was certainly executed wrongly. Did you obtain the money upon the execution of the will?—I obtained it afterwards. In consequence?—I cannot say whether it was in consequence. Did he make it a condition?—He might have done; I cannot say. Did he?—I believe he did. Why did you put your mother’s name wrong?—On the same principle that I put everything else wrong. Did you think that putting Hannah Frances instead of Henriette Félicité would make the will a bad one?—I never intended it to be a good one. Did you think it would make the will a bad one?—I did think so; yes. What?—I did think so, I have no doubt. You did think so?—Yes. You knew your mother’s name, of course?—I did. Have you got that letter?—Yes. And that is signed H. F., is it?—Yes. That is how you came to put Hannah Frances?—It is not how I came to put Hannah Frances. You say you got a letter from her signed H. F.?—Yes. Is that why you put Hannah Frances?—I believe it was. Sarah or Elizabeth would have done as well?—No doubt you would find a hundred names. Who was Mr. Henry Angell?—He was a person I have seen since. Then he was a real person?—He was. You believed Henry Angell to be a real person?—Yes. Why did you put in Sir John Bird?—I cannot tell. Is there such a person?—I do not know. Who was John Jarvis?—I do not know, I am sure. Now, were not both John Jarvis, Esq., of Bridport, Dorset, and Henry Angell, of Dorset, in England, close and intimate friends of Arthur Orton’s father?—Ah, that I cannot tell. It was Orton suggested the name to me to put in. They were known to him, no doubt.’

According to the defendant’s account, the will was designedly a fictitious will. The will may have been fictitious under two sets of circumstances. If a man has been called upon to make a will for some ulterior purpose, and he represents himself as being possessed of certain property, he must mention the estates of which he says he is possessed; but suppose he does not know the property, he has to draw upon his imagination. That may have been the case with the defendant, or the case he himself puts may be the true one—namely, that knowing, as Sir Roger Tichborne, what estates he was entitled to, he would not communicate the names of the estates to Mr. Gibbes, but substituted false ones. In either case, accord-

ing to the admission of the defendant, he intended to execute a gross fraud, which amounted more or less to a swindle, and to obtain money by leading Mr. Gibbes to suppose he had made a genuine will. In any case this would be a scandalous fraud which might expose a man to a charge of obtaining money under false pretences, and yet it only affects the defendant’s case in this way. If you believe he put in a false statement as to the property because he did not know what property the Tichborne family possessed, such ignorance on his part is incompatible with the supposition that he is Roger Tichborne. With regard to the question as to how this name of Hermitage could have come into the defendant’s imagination, it was asserted by the Attorney-General on the former trial that it arose from his association with Wapping, there being a Hermitage Wharf and a Hermitage Bridge in the immediate neighbourhood of old Orton’s residence. But it may have arisen from a different cause. Shortly before Roger Tichborne left England there was a Hermitage estate put up for sale, and there are two letters of Roger Tichborne’s in which he says he approved the plan of purchasing it, but the purchase was not effected during Roger Tichborne’s stay in this country. Whether the defendant had this in mind or whether it was from his Wapping associations I don’t know.

Another extraordinary circumstance is that in that will he gives his mother’s name as Hannah Frances. Mr. Gibbes tells you how that happened. He says, ‘What are you going to do for your mother?’ and he says, ‘Oh, let her have my estate in the Isle of Wight.’ But says Mr. Gibbes, ‘I have only got her initials,’ and the defendant, after some hesitation, said that her name was Hannah Frances, when as we know her name was Henriette Félicité. On being asked by the Solicitor-General why he put his mother’s name in the will as Hannah Frances, the defendant replied, ‘Upon the same principle that I put down everything else wrong.’ It was then suggested that he had put his father’s name in right, and he was asked why he did not describe his father as Sir John, Sir Julian, or Sir Jasper Tichborne. The defendant answered, ‘There was no use in doing that because Mr. Gibbes knew better.’ The defendant said he thought the Solicitor-General was very insolent in his insinuations, whereupon the Solicitor-General retorted that he meant to be so. The Solicitor-General was provoked and used a hasty expression, which I think is to be regretted. The defendant says he gave his mother’s name as Hannah Frances because he wished to make the will fictitious and delusive in that respect as well as in respect of the properties he mentioned. Do you believe that, gentlemen, or are you of opinion that he gave the Christian names of his mother as Hannah Frances because he knew no better? Is it possible that a person grown up to man’s estate, who had been in constant intercourse with his mother, should not have known her Christian name? I could understand his forgetting her second name, but Henriette was the name by which his father always addressed her in writing, and probably in domestic intercourse, and, if so, he must have heard his father address her as Henriette hundreds and hundreds of times. Besides, we know that Roger Tichborne wrote to his mother about her name-day on the festival of St. Henriette. It may, indeed, be said he had forgotten his mother’s Christian name, but every man no judge for himself on this point. Is the Christ

name of a mother ever forgotten as long as memory remains? Judge for yourselves. If you think he inserted 'Hannah Frances' because he did not know the Christian names of Lady Tichborne, can you resist the inference that it was not owing to want of ability to recollect them, but because he had never had any knowledge of them?

As soon as Mr. Gibbs got to the last part of the will he would naturally ask who were to be the executors. The defendant answers 'John Jervis, Esq., of Bridport, in Dorsetshire, and my mother, Lady Hannah Frances Tichborne.' Was John Jervis a fictitious personage, it may be asked? No, he had a real existence. The will goes on to provide that Mr. Henry Angell shall be the guardian of the defendant's children. He also lives in Dorsetshire, I think. In cross-examination the defendant cannot say of his own knowledge whether there is or is not a John Jervis of Dorsetshire, neither does he know whether there is a Henry Angell. Another executor is Sir John Bird, of Hertfordshire, who turns out to be a purely fictitious person. When the defendant is asked about him he says he put in his name because he was an imaginary person, and he does not know why he put in that particular name. There comes now an inquiry which is of considerable importance, and that is the mention of the names of John Jervis and Henry Angell, who were close and intimate friends of the Ortons. Then the question is put to him, 'What I ask you is whether Arthur Orton had told you of John Jervis and Henry Angell, and whether that induced you to leave them guardians over your infant children?' To that he says, 'I don't remember what he told me; I don't think he told me anything about them more than the name.' The first thing which strikes me is that the names of Jervis and Angell could not possibly be known to Roger Tichborne, and if, therefore, they were used by Roger Tichborne they must have been suggested to him from without; but, on the other hand, Arthur Orton would have been familiar with the names, and they would naturally have occurred to him, while they would not have occurred to Roger Tichborne. The defendant, of course, felt this disadvantage, and therefore says that Arthur Orton expected to receive part of the money which was to be obtained by the execution of the will. Then, the defendant says, he suggested that John Jervis and Henry Angell might be named as executors.

The difficulty here is to understand how Roger Tichborne could be at a loss to find names to put in his will as his executors without having recourse to Arthur Orton. Mr. Gosford would have given him a name in a moment, Mr. Slaughter another, they being the two executors of his original will. He could have had 50 names. This is the defendant's explanation, which is apparently simple and straightforward, 'I did not want to make the will, but I could not get a certain sum of money without executing it. If I had been left to myself, I should not have executed it, but the fact is I was associated with a man who pressed me to make a will because I promised to give him 250*l.*, and he prevailed upon me against my better judgment to make it. Then, he supplied me with the two names and I took them and put them in.' That explanation you can accept or reject. But the learned counsel for the defendant, whose business, as I should have thought, would have been to support the statements of his client as far as he

could by fair argument and reason, instead of doing so in this instance, passed the defendant's explanation over in the most sublime scorn. 'Oh,' said he, 'I cannot say, in the face of the evidence, where Arthur Orton was at the time the will was executed. He was somewhere or other in the bush; but I cannot say he was at Wagga Wagga. Therefore, I must have recourse to another and more specious and plausible explanation.'

I can fancy the learned counsel sitting down, and, with poetic fervour, painting a picture something like this: 'When Roger Tichborne was with Arthur Orton in the woods of Australia, miles and miles away from any human being, sitting up during the greater part of the night under the magnificent and cloudless skies of Australia, conversing about old times, Arthur Orton's stronger mind impressed the weaker mind of Roger Tichborne with the adventures and persons connected with his own life, and so when the defendant is asked for names he jots down the first that occur to him, and those at the moment most familiar were those told him by Arthur Orton.' Then the learned counsel asks—'Am I departing from the strict path of logical argument or of common sense in asking you to believe that this is what happened?' If the question had been put to me, I should have replied, 'You are not only departing from the strict path of logical argument, but from every conceivable path of logic or common sense.' We have all heard of the wonderful doctrine of the transmigration of souls, which supposes that when a soul is disembodied it pops into the first empty body that presents itself; but the learned counsel asks you to believe in the transmigration of one living mind into another living mind. According to him, in consequence of the conversations under the canopy of heaven, and the magnificent cloudless skies of Australia, the recollections of Arthur Orton passed into the mind of Roger Tichborne, turning out all recollections of the latter, and taking their place. The only thing that I remember at all like this is the hermit crab. It is a fish destined by nature to inhabit a shell, but which has no shell provided for it. At length it finds another shell-fish, puts in its claws, which are long and sharp, pulls out and devours the innocent, unoffending owner of the shell which it desires to inhabit, and takes possession. This is the process by which the learned counsel wishes you to believe the mind of Arthur Orton occupied the mind of Roger Tichborne. He wants you to suppose that Roger Tichborne had no recollection of things appertaining to himself and remembered only the things told him by Arthur Orton. Is this a theory which any rational man can entertain for a moment? So much for the remarkable will, which is one of the most striking features in this case.

After it was executed, Mr. Cottie still hesitated to advance the money, and preferred that the defendant should wait till he got to Sydney, where the head office of the bank was situated. The defendant accordingly goes to Sydney, whence he sends a telegram to Gibbs asking for an advance of 5*l.* Then Mr. Cubitt sends this letter to the Dowager Lady Tichborne:—

'Sydney, Jan. 22, 1866.

'My dear Madame,—After a long, anxious, tedious, and expensive search I have at length succeeded in discovering your son, who, as you will learn from him, is now in Sydney, and with whom I have now had several interviews.

'From Mr. Tichborne himself you will learn all particulars relating to myself, and my simple

reason for now addressing you is that I may add my part towards clearing myself of serious imputations against my character through the perfidy and deceit of one of my agents, who, with a view to acquiring gain for himself, has not hesitated to vilify me in a manner disgusting to the feelings of any honourable man.—Yours, &c.,

‘A. OUBITT.’

The defendant writes the following letter to Lady Tichborne:—

June 23, 1866.

‘My dear Mother.—I have not received your letters yet. Has they will have to go to Wagga-Wagga first, I intended to go by the mail steamer on the 14 July. But they have altered the date of departure to the first of Aug. very annoying. I have found Mr. Oubitt a very different person to what I represented him to you in my last letter. I have every reason to be please with him and the way in which he has enquired for me. I have my arrangement with him for the expense and trouble he been to. I likewise enclose a note from him. Hoping my beloved mother soon to be with you I remain your affectionate son

‘ROGER CHAS. TICHBORNE.’

Now comes a letter from Lady Tichborne to Mr. Gibbs, dated May 10:—

‘Mr. Gibbs,—I wish to acknowledge your letter and also to thank you for it. I must begin by saying that to see my dear son again would be the greatest happiness I could have in this world, and having had the awful and most melancholy misfortune to lose my youngest son, Alfred Joseph, I should, of course, appreciate all that happiness still more, if possible; but, notwithstanding all that, Roger's identity must be beyond any doubt, and he cannot be identified till he comes where I am, either in England or in Paris. I cannot send 400*l.* unless I am perfectly sure of his identity; and you must understand that Roger has been three years at the Jesuit College at Stonyhurst, and when he was 19 years of age, in 1852, he went into the Dragoon Guards, where he remained nearly two years. He passed his examination well before he got into that regiment; he never knew his grandfather—Sir James's father was dead even before I married his father. Roger was born in Paris, and spoke French, I believe, better than English. I should be glad to know whether he is married or not. I enter into all these details that you may be able to know him; but I repeat I cannot send any money till he has been identified, and that cannot be done, I am afraid, till he comes to England. Perhaps his creditors would allow him to come over, and would consent to

wait to be paid till he has been identified in England, and if he will not tell them who he is he must, under one pretence or other, contrive to come to England. Before I conclude this letter I must recommend you once more to try to find out the truth, so that it should be beyond doubt that young man is my dear son, Roger Charles Tichborne.’

She signed herself ‘Lady tichborne.’

‘I must, however, beg of you to bestow the greatest attention on that business and that poor young man who, I repeat it once more, cannot be identified till I see him. Perhaps his creditors could allow him to go over to London to meet me, and would consent to wait to be paid till he is identified. If he is really Roger Charles Tichborne, my son, of course there will not be any difficulties. May I ask you to answer this letter by the next mail to this address.’

The information contained in this letter was inconsistent with the statements made by the defendant to Mr. Gibbs at Wagga-Wagga. Forthwith either Mr. Gibbs or Mr. Cottie telegraphs to the defendant at Sydney, who replies that his brother was educated at Winchester College, Yorkshire, an establishment which has no existence. Possibly this question may have been put to the defendant to test the accuracy of his statement, because in the obituary of the *Illustrated London News*, which paper was taken in at the Institution at Wagga-Wagga, it was recorded that Sir Alfred Tichborne was educated at Prior-park, a well-known Roman Catholic College. At all events this is the only way in which I can account for such a question being put to the defendant. In reply to other telegrams, the defendant stated that he was a private in the 66th Regiment, that he was educated in the High School, Southampton; that he did not know who was the agent at Tichborne-park at the time he left. These replies he repeated in a subsequent conversation at Sydney. On the 9th of July, 1866, the defendant, having left his wife at Goulburn, returned there from Sydney and was re-married to her by a priest according to the rite of the Roman Catholic Church. It has been suggested that he went back for this purpose, because he had learnt for the first time while at Sydney that the Tichbornes were Roman Catholics; but, on the other hand, it is natural enough, assuming him to be Roger Tichborne, that he should wish to take home with him a certificate showing that his marriage had been duly celebrated according to the forms of the Church of Rome, and not merely by a Dissenting minister in a private house.

EIGHTH DAY. February 10, 1874.

Gentlemen of the Jury,—We left off yesterday at a point where the statement of the defendant had been taken by Mr. McCarthy, the solicitor to the bank, and I have called your attention to the contents of that statement, or rather to Mr. McCarthy's short summary of it, and to the fact that in it the defendant said that the regiment into which he had enlisted was the 68th—agreeing in that with the telegraphic message he had sent in reply to the inquiry by Mr. Gibbs on the subject. I am now going to call your attention to a still more remarkable document—indeed, perhaps, I may say, the most remarkable document which presents itself in the whole course of this singular cause. Notwithstanding the statement made by the defendant to Mr. McCarthy, the bank still hesitated to advance the

500*l.* Mr. Gibbs was about to leave Sydney. He was desirous, if he could, of befriending the defendant, and of getting the money for him, and he had recourse to a friend of his own, a solicitor, a man named Milport, in whose hands he placed the defendant. It occurred to either of them that it would advance the interests of the defendant if he would make what is called a statutory declaration. You are possibly aware that by modern legislation power is given to parties who wish solemnly to verify statements where an oath is not admissible to make a statutory declaration—a declaration made under certain forms and certain solemnities, and to which penalties are attached in case of false statements being made similar to those which attach to false statements made on oath. Mr. Gibbs thought it right

accompany his request to the defendant with an explanation of the consequences she would bring upon himself in the event of there being any false statements in the declaration. His answer was, 'Oh, yes, I quite understand that; I am willing to make the declaration.' Accordingly, Mr. Milport took one of the blank forms and wrote down the statements of the defendant in answer to questions he put to him. They were afterwards copied out fairly, and Mr. Gibbs tells us the defendant went before a notary public and made and subscribed the declaration. The declaration so signed by him was retained by him with the view to obtain the money from the bank. Whether in the sequel he was successful in doing so it is not important to us to inquire. It is, however, most important that we should know what he affirmed. The original is not forthcoming, but the draught is produced, and it is one of the most important documents and facts in this case. In it he says:—

'I, Roger Charles Tichborne, of Tichborne-park, in the county of Hampshire, in England, but lately residing at Wagga Wagga, in the colony of New South Wales, Baronet, do solemnly and sincerely declare that I have been lately residing at Wagga Wagga aforesaid under the name of and generally known as Thomas Castro, and that the annexed photograph, marked A, is a true photographic likeness of myself. And I further declare that I was born on the 5th day of January, 1829, and that I am the eldest son and heir-at-law of the late Sir James Francis Doughty Tichborne, of Tichborne-park aforesaid, Baronet, by Harriette Felicia, his wife.' So far, assuming him to be Roger Tichborne, the document is not open to question; but now comes the part to which your attention must be most particularly directed:—That I arrived at Melbourne on the 24th day of July, 1854. That I left England in the "Jessie Miller" on the 28th of November, 1852. That I sailed from Rio Janeiro on the 26th of April, 1854, in the "Bella," which was wrecked, and the boat in which I was picked up by the "Osprey," Captain Owens, by which vessel I was conveyed to Melbourne, where I first assumed the name of Castro.

'I left England in the Jessie Miller,' and 'I left on the 28th of November, 1852.' You must ask yourselves, gentlemen, whether it is possible that Roger Tichborne could have made that statement. 'The Jessie Miller'—Roger Tichborne never set his foot on board the Jessie Miller in the whole course of his life. And unless he heard of the Jessie Miller from Arthur Orton when they were consorting together in the bush, most surely Roger Tichborne never heard the name of the Jessie Miller pronounced. The Jessie Miller was the ship in which Arthur Orton sailed from Valparaiso from London. Then again he says he left England on the 28th of November, 1852. Roger Tichborne left England in the month of March, 1853, and sailed in the French ship La Pauline. But who had left England on the 28th of November, 1852, or at all events on the 29th?—Arthur Orton. Arthur Orton left the river in the Jessie Miller on the 29th of November, 1852, and one of the witnesses for the defence states that they were to have left by an earlier tide. You will bear in mind that one of the statements made by the defendant was that he got into some scrape in consequence of some money matter and enlisted, and that he was bought out by his father, who kept him under close surveillance until he left England in the month of November. Can you reconcile that statement of his leaving in the Jessie Miller and

in November, 1852, with the fact that Roger left in La Pauline and in March, 1853? It may be asked how did the name Jessie Miller and the date November, 1852, present themselves to the mind of the defendant. The answer may be that it is possible the statement may be true; but it must not divert us from the real question whether the statement could ever suggest itself to the mind of Roger Tichborne.

I can quite understand how it may come to pass that a man who was suddenly asked the name of the ship in which he sailed, and the time at which he sailed, and not having a knowledge of the real facts, having one of two things to do. He must either draw upon his imagination or upon his memory for some ship and some date. He will imagine them, or, if he has sailed himself in some particular ship, nothing is more likely than that the ship in which he sailed and the time at which he left would suddenly present themselves to his mind. The questions were put and had to be answered, and if he did not know the name of the ship or the time it sailed, he must invent ship and date or state the name of a ship in which he himself had sailed and the time of his own departure.

There is no amount of improbability so great as would be the supposition that Roger Tichborne, never having heard of the Jessie Miller, had hit upon that combination of names, and upon the month of November, 1852—that date having no reference to himself whatever; because on the 20th of November, 1852, Roger Tichborne wrote to Lady Doughty from Upton telling her he was going from London that day, and should take a horse with him and leave it at Winchester, with a view of hunting at West-Tisted on Tuesday, the 30th. Therefore, it never could have occurred to Roger Tichborne that in November, 1852, he had started in the Jessie Miller from England for Valparaiso. How, then, can you account for these recollections of Arthur Orton as to the ship and time of sailing being stated by Roger Tichborne as part of the events of his life? I confess I have sought in vain for any solution of that question. The only one which has been offered is the explanation suggested by the learned counsel for the defendant, that the recollections of Arthur Orton had become the recollections of Roger Tichborne; that having dwelt so long with him in the bush, and Arthur Orton having so frequently narrated the incidents of his life and his adventures, they had become impressed upon the mind of the defendant, so that when he was asked as to events that occurred in his own history, his memory brought up not those events, but events which occurred in the history of Arthur Orton. Whether that would become reciprocal, according to the somewhat nebulous metaphysics of the learned counsel, I do not know. Whether Arthur Orton is now wandering about with the recollection of the events of Roger Tichborne's life so impressed upon his mind that if you could ask him in what ship he left England he would say La Pauline, and when he left he would say on the 1st of March, 1853, I am sure I don't know. It is, however, the only solution which has been suggested, and it appears to be altogether illusive, then the case stands thus:—Unless you believe that Roger Tichborne could have forgotten these two matters, and could have adopted, instead of them, the dates of Arthur Orton, it seems to me that this document can only lead to one conclusion. How Roger Tichborne could have confounded important events in Arthur Orton's life with recollections of his own

life is what, as I have said, I cannot understand. These are the observations which present themselves to my mind as to the statutory declaration.

At this time the defendant received a letter from Lady Tichborne, which is not forthcoming, but which must have been contemporaneous with the letters to Gibbs and Cubitt. In the reply to that letter the defendant says:—

'Sydney, July 24.

'My dear Mama,—I received your letter yesterday morning, and was somewhat disappointed that you do not acknowledge me as your son. Surely, my dear mama, you must know writing you have caused me a deal of trouble, but it matters not has I have to leave a country where I enjoy such good health. I have grown very stout. Yesterday one of Uncle Edward's old servants call on me, he being here a long while. He is named Guilfoyle. You must remember him; he was remodeling the garden at Tichborne when I was staying at Uncle Edward's. He knew me as soon as he sees me. His wife was with him. She looks very young yet, and yet she has 11 children. You speak of Bogle in your letter to Calvert. I have made inquiries. I can't find him. Mr. Tarval is here with Sir John Young. I have seen and had a long conversation with him. I heard that the Rev. Fawcett Phillips was out here, but I cannot find him. My dear mama the post closes in ten minutes more for France, so I must say good-bye. In case I am too late I will send this to England has the English mail does not close for two hours after the mail for France.

'I enclose photograph of myself that you may see how greatly I have improved. I wish, my dear mama, to see you once more, but I am afraid not, as I can't get sufficient money to come home. Good by, my dear mama, and may the blessed Marie have mercy on your soul.

'I remain, your affectionate son,

'ROGER CHARLES TICHBORNE, Metropolitan.

'Hotel, Pitt-street, Sydney.

'To Lady Tichborne, 40, Rue Neuve des Mathurins.'

There are several observations which arise upon that letter, and first the adoption of the term 'mama,' which you will find perpetually recurring in the form of 'dear mama' or 'my dear mama. And it is remarkable for this reason—that Roger Tichborne from the time he became a man never used the term 'mama' in any one of his letters, and he never even repeats the term 'my dear mother' in the body of his letters, although occasionally at the end of a letter he says, 'I remain, my dear mother, your affectionate son.' In the second place, Roger Tichborne never introduces religion or religious observations or ejaculations in the course of his letters to his mother. I don't remember a single instance of it. And, therefore, one is struck by this expression of hope, that 'the blessed Maria may have mercy on your soul.' And this, I cannot help remarking, was written after the letter from Lady Tichborne had been received, in which she states that they were all Roman Catholics, and that Roger had been a good Roman Catholic. And another thing occurs to me, but I don't know whether I am right—I cannot help thinking that 'the blessed Maria' must have been a South American importation. I apprehend that an English Roman Catholic would have said 'the Blessed Mary.' In this country they speak of the Blessed Virgin Mary, not Maria. Maria is Spanish. Now, the letter which I have just read to you is remarkable for its composition, style, and grammar. Handwriting, composition,

grammar, and orthography are tests by which you can judge between an educated and uneducated man. Now there are here in 20 lines 18 misspellings and eight mistakes of grammar. As an instance, the word 'as' is spelt in six instances with an 'h.'

On the same date Cubitt writes to Lady Tichborne stating that her son has accepted bills drawn in his favour, and payable at the Oriental Bank, London. Now, this certainly was a very strange proceeding on the part of Cubitt, because he had distinctly agreed with Lady Tichborne that his ultimate reward was to come out of the estates when they were recovered. He gets the defendant at Sydney, and gets the bills out of him. Mr. Gibbs in September, 1866, writes to the Dowager Lady Tichborne:—

'Wagga-Wagga, New South Wales, 16th September, 1861.

'Madam,—In all probability before you receive this you will have seen your long-lost son, for in spite of the discrepancies between his statement of his youthful career and yours, such I am confident he is. I wrote you by the May mail inclosing some photographs, and they should have reached you by the time you wrote, the 18th of July, but as some other letters, posted by the same hand, on the same day, all miscarried, I conclude I have to thank the untrustworthy messenger. In case of any unforeseen delay in your son's return voyage, I beg to inform you that he, together with Lady Tichborne and infant (girl), and a servant named Bogle, who had been valet to his late uncle (and who I believe has been receiving 50*l.* per annum from the Tichborne family through the Union Bank at Sydney), all sailed in the Panama mail steamer on the 2nd of September inst. from Sydney. Previously to this he had been identified positively, not only by Bogle, but by one Guilfoyle, a market gardener in Sydney, who was gardener to his father, the late Sir James, and who is now a wealthy man—also by his wife. I was previously satisfied from Mr. Turville's statement that really was the man. His delay in coming was merely attributable to the difficulty of getting a sufficient advance to go home properly; as, however convinced I was of his identity, I could not persuade others to be equally so, especially without mentioning matters that Sir Roger would not have wished. I trust, however, ere this comes to your hand, that you will again have had the satisfaction of seeing your son, and that your maternal anxieties will be at an end.'

Well, the bank might not have been induced to advance the money had it not been for a gentleman named Turville, who I cannot help thinking has taken a rather foolish part in this matter. Mr. Turville had known the parents of Roger, but he had never known Roger himself, therefore he was not competent to form any opinion as to the identity of Roger Tichborne or of the defendant with Roger. However, they have an interview with Mr. Turville, who puts three test questions to the defendant, as Mr. Gibbs tells us. The first question was whether his mother was stout or thin, and he said that she was stout, and a very tall, large woman. Now, it is scarcely possible that he could have made a more unfortunate statement, because it is admitted on all hands that Lady Tichborne was leanness itself. She was, if I may say so, the incarnation of leanness. It so happened that Mrs. Butt, the wife of the proprietor of the National Hotel, where the defendant was staying, was a tall, stout woman, and

defendant, referring to her, said that that was the sort of woman his mother was. We hear now of a touch of filial piety, after so many years of silence and neglect, for he says, 'If I come into the property I will do something for Mrs. Butt, because of her great likeness to my mother.' Then Mr. Turville asked him if he remembered where his parents were in 1852, and the defendant, after leaning his head upon his hand for a short time, said, 'They were in Paris and I was in Dorsetshire.' To this Mr. Turville answered, 'You are right. I was living in the house with them at that time.' It is possible that Mr. Turville was with them in Paris, but it could not be that Roger was in Dorsetshire, because at that time he was at the Portobello Barracks, in Dublin. Mr. Gibbs, however, says it might have been 1853 he said; but that could not be, because Roger Tichborne was then on his way to Valparaiso. Either Mr. Turville must have been altogether out, or Mr. Gibbs must have been giving us, from want of recollection, an erroneous statement. The third question, whatever it was, Mr. Gibbs has unfortunately forgotten, but if that question and answer had been as unsatisfactory as the other, that interview was not attended with any very satisfactory results. However, Mr. Turville seems to have been satisfied. He shook hands with the defendant, and said, 'What convinces me of your identity more than anything else is your strong resemblance to your father, especially about the mouth.' The conviction of Mr. Turville must, I think, have been a faint one, because I find him writing to Lady Tichborne a letter, dated 'Government House, Sydney, Australia, Nov. 23, 1886,' in which he says:—

'My dear Lady Tichborne—Your letter of September 20 reached me on the 15th inst., and I will at once assure you that you need make no apologies for troubling me, as I shall be most happy to be of any service to you. Throughout your letter you speak as if perfectly satisfied with the identity of your son, so of course I shall speak of him as such. I called on him twice while he was here, but as I had never seen him before, and as my name even was quite unknown to him, it was impossible for me to be sure of his identity. But I thought it right to make myself known to him, as I was probably the only person out here acquainted with his family, and I should have been happy to have given him any advice, which, however, he did not seem to stand in need of from me. Under these circumstances, I felt myself unwilling to force myself upon him. I mention this in reply to your wish that I should "seek him out," "give him advice," and "be kind to him." He will ere this be in England, as he left this early in September, if I remember right, *via* Panama. I saw the manager of the Bank of New South Wales, who had received the 400*l.* you sent for Sir Roger. The bank had instructions to return the money to you if Sir Roger had already left. I agreed with the manager that this would be the proper course, and I enclose a note which he wrote to me at my request. I also called on Mr. Cubitt and gave him to understand that you were not well pleased with him for having obtained Sir Roger's signature to a bill for the reward. The amount of this bill Mr. Cubitt declined—very civilly, I must admit—to give me. That your son had signed the bill he freely admitted, but said that the act was quite voluntary on Sir Roger's part, and that he, Mr. Cubitt, had used no pressure whatever. I see no cause, however, for your arm as to this bill. Should Sir Roger prove his

title he will of course have to pay the amount, but that, I take it, will be all the inconvenience that will arise. For until he does prove his title his signature, I suppose, is not worth much, and Mr. Cubitt and others similarly situated (for I regret to hear that there are others; but your son of course will tell you of all these matters) can have no interest in proceeding against your son before he has proved his title; their interests lie clearly all the other way, and would lead them to giving him every facility.'

Now, I cannot help thinking that Mr. Turville's recognition, such as it was, was calculated to advance his interests and to lead to the banker's advancing the money that was required.

Then there comes another incident which seems to have had considerable effect on the mind of Mr. Gibbs, who was already much disposed to believe in the identity of the defendant with Roger Tichborne. They go together afterwards to a jeweller's shop, where there is a stereoscopic representation of Paris. Mr. Gibbs takes up the transparency, and while he is looking at it the defendant says: 'Oh, that is Paris,' and he states the part of the Boulevards which it represented, and, as it turned out, correctly, because there were stereoscopic slides of that part of the Boulevards, at which Mr. Gibbs looked, and found that the answers of the defendant were correct. That would be a very striking fact, if the defendant had never had an opportunity of seeing the picture. But Mr. Gibbs cannot tell whether he had ever been in that shop before. If he had been there, he of course might have seen the slide as well as Mr. Gibbs. We know that he had been to a jeweller's shop to get the Tichborne crest put upon the stone of a ring, and it might, I think, have struck Mr. Gibbs as singular that a boy who had left Paris at 11 years of age should, after the interval of so many years, have remembered the streets so perfectly. However, it is a fact that the defendant did recognise the street, and it is uncertain that he ever saw the slide before. You must not assume that he did. If he recollected it, he could not have recollected it as Arthur Orton, because Arthur Orton certainly never was in Paris.

Then comes the question how he could have known of the Tichborne crest. If he had had no means of learning what it was, his knowledge of it would be a very striking thing. How could Arthur Orton or anybody who was not Roger Tichborne or one of the family, or connected with them, have known what the crest was? The answer, I think, is this:—The defendant admits that in Sydney he saw a *Baronetage*, and looked into it. He must have had some object in doing so. Of course, he did not see it without looking at the name 'Tichborne,' and there he would have seen the crest. I am reminded by my learned brother that he might also have seen it in the *Illustrated London News*, which contained a notice of the death of Sir James Tichborne.

And now we take leave of Mr. Gibbs with this fact:—before he left Sydney he wrote to Lady Tichborne before pointing out discrepancies between her statements and the defendant's. Did not those statements suggest any doubt to the mind of Mr. Gibbs? They were certainly of a very grave and startling nature. He does not, however, seem to hesitate in his expectation of receiving the very large reward of 1,000*l.*, of which he had actually, indeed, received acceptances to the tune of 500*l.* Now, there certainly is something very singular in this. The defendant, as

originally represented by Mr. Gibbs, was very reluctant to be dragged forth from his security, yet he gives 500*l.* to the man who discovered him and brought him forth from the obscurity to which he had voluntarily consigned himself. But he also gave acceptances to Mr. Cubitt for 500*l.*, and in addition he gave a very high-flown testimonial to the man who had been instrumental in taking him out of the darkness by which he had surrounded himself, and that, as he says in it, 'after many months' toil,' the toil consisting in putting some advertisements in the newspapers. Mr. Cubitt wrote the memorial, indeed, but it was signed 'R. C. D. Tichborne, Bart.,' and it spoke of Mr. Cubitt's 'unflagging diligence' when there was little hope of success, and adds that persons who had friends missing could not do better than put themselves in his hands, with a firm conviction that their interests would be properly attended to. Why, as I have intimated, all that Mr. Cubitt did could have been done by the commonest newsagent. The whole of the discovery, if merit was in it at all, was due to Mr. Gibbs, but Mr. Cubitt got 500*l.* worth of acceptances, and managed to get them paid as a reward, which if he had had any sense of propriety, would never have gone into his pocket. Well, on the 27th of August Lady Tichborne wrote to Mr. Gibbs a letter, in which she says:—

'The idea that my beloved son, Sir Roger Doughty Tichborne, could be wanting the necessities of life is a very distressing thing to me, and more so than I can explain; therefore I beg that you will continue your assistance to him, and see that he is not wanting in anything, both in clothes and also for his food, as I assure you that you will be amply rewarded for it, and I will return you everything even in supposing that the executors did not do it; in fact, you may rest assured that you will not lose anything if the things go on so slowly, it is surely owing to the very great distance you are from me, it is a sad thing to consider that you cannot have an answer to my letters before 6 months are over. I would have sent him 20*l.* to-day, but as I cannot say his real name, and I do not know the other, I could not send it straight to him, therefore I send it to you, and I think it would do to pay his journey from Wagga-Wagga down to Melbourne, and to buy, perhaps, a little linen for the time he has to spend in the vessel. Your own journey I beg you to advance it, and it will of course be returned to you afterwards—I mean your own journey from Wagga-Wagga down to Melbourne. As for what regards your passage from Melbourne to England, I will pay both yours and Roger's at the office in London, as they told me it was the same thing, and they will send an order to their captain to desire him to bring Sir Roger Doughty Tichborne and his friend Mr. Gibbs over without asking them any money whatever. It is not necessary to have any outfit; it is even better for him to buy his clothes in England, as they will be more fashionable and better suited to him; but I must return to the subject that interests me so much.

'I trust that you will continue to advance him the money for his food, lodging, and also his washing, as I will return every farthing of it to you by-and-by, and you will be amply rewarded for everything you have done for my beloved son, and as you begun or embarked in that business, I hope you will go through it, and you will find in the end that you have done a good and advantageous thing, and what men of business call a capital

affair by doing it, only the distance is so great that it prevents the things from being quickly done. As for his creditors, their good sense must tell them to let him come to London to be identified, for what can he do without it, and as soon as he is the things will go straight, and his debts will be paid immediately, all the fortune is in the hands of the Chancellor. My poor dear son Alfred left a little boy only three months old, and he is a ward in Chancery, but notwithstanding all that my solicitor told me, that they cannot keep Sir Roger out of his possessions for one hour when he has been identified. I fancy that the photographs you sent me are like him, but of course after 13 years' absence there must have been some difference in the shape, as Sir Roger was very slim. I suppose also those large clothes would make him appear larger than he is. I am, however, much obliged to you for having sent them to me. I think it will be an advantage to him if you will accompany him, therefore I beg you to do so. I shall be delighted to see you with him. He will require a very clever man to be with him, as having been so long away from England, he is no longer accustomed to the English manners. I suppose you will like to come to England, where, perhaps, you would be better than where you are. My son Roger will, I know, be very happy if you accompany him, and you need not wait six months again before embarking; but if you could embark as soon as you have had this letter, it would be the best plan.

'I hope my dear son Roger Doughty Tichborne will have patience, and that you will have the kindness to take great care of him, as I felt very unhappy at reading in your letter that he was near falling into despondency, he must have courage; and now that he is near reaching the port, he must go through his passage home with courage, and certainly his creditors cannot set themselves against his coming home, as it is the only way to settle that business, or rather to pay his debts—you might read them this letter if you think it can be of any use to you. I shall go to-morrow to the office, and desire them to let you and Roger know when their vessel sails, then he will soon be near me again after so many years' absence, and as for the banker, my solicitor told me how extraordinary it is that that young man will not make himself known and tell them who he is, and also perhaps refer them to me, as he would have as much money then as he requires. The Doughty property brings in fifteen thousand a year, and it is when they inherited it that the Tichbornes have added the name of Doughty to their own family name, and the Tichborne property brings in, I believe, five or six thousand a year; therefore, you see that there will be amply to reward you, and also to return you what you may advance for him at present.—I remain, dear Sir, sincerely yours, H. F. TICHBORNE.

'My best love to my dear son Roger. I trust that the 20*l.* will do for the present and to pay his journey down to Melbourne. Roger has in his own power to get as much money as he requires from the banker if he tells them who he is and refers them to the London and Westminster Bank, where I am well known and where I bank. If he will not get any money that way, could they not advance a little to you at once, not to pay for his passage, since I will pay for it in London, but in case he should require a few things to take with him. I think the creditors will not and cannot prevent him from returning to see his mother, you make them understand what is certainly

that it is the only way he has to pay his debts; and I cannot help repeating you once more that the sooner Roger comes home the better it is even in his own interests, as soon as he is with me, he will be identified, and the things will soon be settled afterwards.'

Mr. Gibbes writes as follows on the 16th of September:—

'Lady Tichborne.—Dear Madam,—In case of any unforeseen delay in your son's return voyage, I beg to inform you that he, together with Lady Tichborne and infant (girl), and a servant named Bogle, who had been valet to his late uncle (and who, I learn, has been receiving 50*l.* per annum from the Tichborne family through the Union Bank at Sydney), all sailed in the Panama mail steamer on the 2nd of September inst., from Sydney. Previously to this he had been identified positively, not only by Bogle, but by one Guilfoyle, a market gardener in Sydney, who was gardener to his father, the late Sir James, and who is now a wealthy man; also by his wife. I was previously satisfied from Mr. Turville's statement that he really was the man. His delay in coming was mainly attributable to the difficulty of getting a sufficient advance to go home properly, as, however convinced I was of his identity, I could not persuade others to be equally so, especially without mentioning matters that Sir Roger would not have wished. I trust, however, ere this comes to your hands, that you will again have had the satisfaction of seeing your son, and that your maternal anxieties will be at an end. I had almost forgotten to mention that he is accompanied on his journey by a young lad, a *protégé* of his, one Master Butts (Butts), the son of a citizen of Sydney, who could be sent on to England as an envoy in case of accidental delay. I hope by the next mail, notwithstanding many fears to the contrary, to hear from you that you have received my first rough photographs of your son. By your letter you seem to imagine that Sydney is near Wagga-Wagga (pronounced Wogga Wogga—a native name for much water, as we are surrounded on three sides by a river); but you will be surprised to hear that it takes three days' travelling day and night from one place to the other. This is the furthest town of any size in the interior, and is 335 miles from Sydney and 311 from Melbourne. With regard to the 50*l.* you purpose to send me, it is no longer requested, as Sir Roger has given me draughts on England for 500*l.*, which has more than required me for any services I have performed.—I am, Madam, yours obediently,

'WILLIAM GIBBES.'

How Mr. Gibbes, with the discrepancies of which he speaks before him between the statement of the defendant and of Lady Tichborne as to his youthful life, could take it on him to say he was the man, I confess seems to me a very astonishing thing. I cannot help thinking that the wish so often guiding the judgment, Mr. Gibbes desired that the defendant should be proved to be Roger Tichborne and be able to pay the promised 1,000*l.*, and that that fact had a good deal to do with the confidence which Mr. Gibbes professed to have. On the 17th of September Lady Tichborne writes:—

'Mr. Gibbes,—I am much obliged to you for your kindness to my son, and I assure you you will not lose any money by him. . . . I believe him to be my son, notwithstanding what he told you about enlisting and the other statements he made to you different from mine. I think that he has been through so many things since he

quitted home, and has had probably so much to put up with and perhaps to suffer, that it has confused his ideas. As for his birth, I was married in 1827, and he was born, I believe, two years afterwards; but that will be easily ascertained in the register of the parish of La Madeleine, in Paris, where he is born, and also in the register of the parish of Tichborne, where he was also registered. I do not think anything of his not knowing his age exactly, as I have met other people who did not know their own ages exactly.'

She adds that it was likely he would not 'get possession of his estates for some time,' and there the poor lady was quite right. She hopes, she says, that Mr. Turville will be a friend to her son, as she believes him to be rather giddy. A mother certainly ought to know the character of her own son. From what we know of Roger Tichborne, we know that he was a man who took his own course, and refused to be directed or influenced by others, and through the whole course of his letters I would ask you if you see anything to show that he was 'flighty' or 'giddy.' Is not that one of the instances in which this good lady reconciles differences that could not otherwise be got over? It seems to me a great deal too much to attribute to Roger giddiness. Mr. Gibbes seems to intimate that it would not be well to suggest to the defendant circumstances of contradiction, as it might deter him from coming over to England, and that it would be better not to say anything about them. About this time Lady Tichborne wrote to Mr. Cubitt, enclosing him 400*l.* to pay her supposed son's way home. Up to this time she had acted on the very prudent and proper advice of her brother and of her solicitor, Mr. Bowker—who, I think, from all we have seen of him, was about as safe an adviser as she could have had—not to advance money until she had seen the Claimant and satisfied herself as to his identity; but here her anxiety to get him over to England prevails over her prudence, and she sent the money. As the amount required had, however, been obtained from the bank, the 400*l.* was saved to her. In her letter to Mr. Gibbes Lady Tichborne said that Mr. Gosford was not Sir Vincent, but 'Mr.' We know that in June the defendant did not know the name of his father's agent; but afterwards he no doubt heard the name of Gosford, perhaps from Guilfoyle, the gardener, to whom the name of the steward must have been a household word, and the word 'Mr.' may have been written so that it resembled 'Sir.'

A Juror.—Did not the defendant give the name of Hallin?

The LORD CHIEF JUSTICE.—He did, and Mr. Hawkins ingeniously connected the name with that of Hallett, the friend of old Mr. Orton. That was a fair argument for counsel to urge, but to my mind it was not conclusive.

Another Juror.—The defendant said, 'Hallin of Bridport.'

The LORD CHIEF JUSTICE.—He did, and that, no doubt, tended to support the argument of Mr. Hawkins, as no Hallett lived at Bridport. I am now coming to the last letter of Lady Tichborne to any person in Australia, and it is one of great importance. Mr. Gibbes had told her of difficulties arising from the contradictory statements of the defendant and herself, and reminded her that she had said nothing about the brown mark which the defendant gave as one proof of his identity: 'You do not,' he said, 'refer to either the Brighton card case or the brown mark; which

he thought ought to be sufficient to lead her to recognize the Claimant as her son. Mr. Gibbs had said that Lady Tichborne had never made any reference either to the mark on the side or the Brighton card case. So she writes as follows:—

'London, Sept. 17, 1886.

*'Mr. Gibbs,—I have made up my mind to send the money—400*l*. They will forward it at the Westminster and London Bank, or rather the London and Westr. Bank—where I bank, and if Sir Roger has sailed it must remain at the bank till further orders. It is sent to Sir Roger Chas. Tichborne. I did not know how to send it. I hope it will not make any difficulties. You say that I do not mention anything about the mark that he has on his left side, it is because I do not recollect it, and I do not believe I ever saw it; but it does not signify, as he may very well have had it without me knowing it.'*

Well, there is the established fact that she never saw the mark, so far as her memory serves her. Now, gentlemen, ask yourselves whether it is likely that the mother of a child who had on the side a mark some 5in. in length by 1½in. in breadth would have known nothing about it. It may be that in the case of one in Lady Tichborne's position, who did not wash and dress her child herself as mothers in a humbler life do, she may not have had the same opportunities of seeing her child undressed; but a mark of that kind—a congenital mark—is naturally a thing which occasions remark. Is it possible that at some time or other she did not see her child undressed, or, at all events, that the nurses did not tell her that the baby had got a brown mark on his side? We may, I think, fairly suppose that the mother, whether by ocular inspection or from the nurses who washed and dressed the child, would have known about the mark if it had been there. Then she goes on:—

'As for his preceptors, he was one of the Christian Brothers, and I think he may have made a mistake and thought he was a Jesuit—he has confused one with the other. He told me when I saw him in Paris that if Roger was to come back, he would of himself go over from Paris to have him acknowledged, as he knew him very well. He is very honest and very good natured, and he said so because I said that after so many years' absence there are sometimes difficulties that you do not expect. I think my poor dear Roger confuses everything in his head just as in a dream, and I believe him to be my son, though his statements differ from mine.'

Gentlemen, you must judge for yourselves whether the defendant is a person likely to confuse everything in his head. An attempt has been made to produce that impression on your minds, whether successfully or not I don't know; but one thing is certain—that Lady Tichborne, in her irrepressible desire to adopt the defendant as her son, without either having seen him or conversed with him, and notwithstanding that some of the statements made with respect to him are directly contrary to her own knowledge of facts, instead of retaining those doubts which the circumstances were likely to create, gets rid of all doubts and says, 'He confuses everything in his head, he has gone through so much.' Then the letter proceeds:—

'There is one thing which struck me, which is that in the photograph both him and you sent me he has the same small hands that he used to have. Roger had a remarkably small and a very pretty

hand, for a young man especially; and I think that in that photograph the hands were small. I remember when he was 20 it was very startling, and if you add 13 years to it you will find, I think, the same small hands that he had—that peculiar thing has done a great deal with me to make me recognize him. As for St. Vitus's dance, he never had that malady; but when he was travelling in South America his servant wrote to me or to Sir James's agent, Mr. Gosford, that Sir Roger had rheumatism, and could hardly walk, but that he was better. I think, again, Sir Roger has mistaken one thing for the other.'

There is here a confusion of ideas which one cannot well understand, for if there be two maladies unlike one another, it is certainly rheumatism and St. Vitus's dance. How any one could confound the two I cannot imagine. In fact, gentlemen, that men believe readily what they wish to believe is as true now as when the Roman wrote '*Quod homines volunt id facile credunt.*' The letter then goes on:—

*'I hardly like to write my ideas upon that subject. I do it because I know his disposition thoroughly, and it will not prevent me from recognising him for my son, though his statements differ from mine. But when you come to London yourself, you will, of course, let me know more than I can through a few lines in a letter. I will thank you to take all the informations (*sic*) you can about his marriage, and who his wife was, and whether she has brothers and sisters; also whether they have any fortune; all those informations I beg you to take before you sail. I have shown Mr. Cubitt's letter to my solicitor, and he says it is a very improper way of acting—very unfair on poor Sir Roger and also on me, as he does not ever say the amount, and Mr. Cubitt knows very well my agreement with him was that the reward should be paid out of the estates and when Sir Roger was in possession of them; he ought to return my bills, or at least to give six months to give time to get money, instead of 3 weeks. I will thank you to explain all that to Mr. Cubitt yourself before you go away. I trust you will excuse this long letter, but it is so important a business to me as a mother that I am obliged to give you all these details.—I remain, sincerely yours,*

L. J. TICHBORNE'

Then comes this very remarkable postscript:—

'I have also written to Mr. Turville to recommend my dear son to him. I remember Mr. Turville well. I think the photograph very like Roger, at least to what he was when he was 20, always adding 13 years to it: for instance, he used to be very slim, and was very thin; now he has grown stouter a good deal than he was before he went away. I have not mentioned to any lady, and I do not mean to say anything about Brighton, as I think it might turn people against him; but when you come we will talk that business over, and you had better not say a word about it to my lady. And you had better tell him not to mention it to anybody.'

That language with respect to the Brighton card case is strikingly ambiguous; it neither admits the fact that he had got involved in some card case at Brighton nor does it deny it. She merely says, 'It is better to say nothing about it, as it might turn people against him.' If he had been swindled at Brighton it might certainly show that he had been the dupe of others; but how could it turn anybody against him as Roger Tichborne? Had Roger been involved in such a transaction it would be a proof of his identity

would be certainly worth purchasing at the cost of lowering him a little in some people's estimation. What the true interpretation of this language may be must depend, as it strikes me, upon whether there was any reality in this asserted participation of Roger in the card case at Brighton. It will be necessary, by-and-by, to go into that transaction, in order that you may judge whether Roger Tichborne was mixed up in it or not.

A great deal has been said about Bogle, and there is no doubt that the recognition of the defendant by him is a point that is strongly in his favour. You must therefore consider impartially the circumstances under which Bogle met and recognized him. Bogle had married a second wife, the schoolmistress at Tichborne, and had gone out to Sydney after Sir Edward Doughty's death, and was living there. Sir Edward had promised to leave him an annuity in consideration of his faithful service, but had died without carrying his promise into effect. Lady Doughty, knowing her husband's feelings, acted as if he had really the disposition he intended, and she allowed Bogle 50*l.* a year. His second wife was now dead, but his two sons by his first marriage, John and Andrew, were settled at Sydney, and a young son by his second wife was living with him. Bogle had heard through the newspapers that the long-lost Roger Tichborne had been discovered and that he was about to come forward to assume his proper place; and he hears also that he was at that moment in Sydney at the Metropolitan Hotel. He hears that in the evening, and next morning first thing he does is to go to the Metropolitan Hotel. The defendant is out, and Bogle sits down quietly in the courtyard of the Hotel waiting to see him. After a time he sees the defendant coming out from the billiard room and crossing the yard, and as the defendant passed him he looks at him and says, 'Hallo! Bogle, is that you?' 'Yes, Sir,' says Bogle. The defendant says, 'I shall see you shortly,' and he afterwards summons him upstairs. When he goes up, Bogle says, 'I came here to see Sir Roger Tichborne.' The defendant says, 'I am Sir Roger, but I have grown so stout you may not have recognized me.' Then he mentions one person and another, and brings to Bogle's mind so many recollections that the latter recognizes him. For instance, the defendant asked Bogle whether he remembered going out to shoot with him and Brand, the gamekeeper? He mentions various persons by name, and asks Bogle whether he remembers them. He inquires about Bogle's wife and his two sons, John and Andrew, mentioning their names; but on this point my brother Lush reminds me that Roger could not have known Bogle's wife, because his first wife had died before Roger Tichborne left Paris, and he did not marry the second wife until after Roger had left England. The knowledge which the defendant showed naturally impressed Bogle, and accordingly he recognized him, without the slightest doubt, as Roger Tichborne.

Now, the first question that presents itself is this—was Bogle honest in his recognition? A great many remarks have been made upon Bogle, and it has been said, assuming the defendant to be an impostor, that Bogle was a co-conspirator, and that Bogle had embarked his fortune with the defendant in the hope of getting some large reward by acknowledging him and assisting him to assert his claims. I do not believe in anything of the kind. We saw the old man here, and cer-

tainly a better specimen of the negro race I would not wish to see. He was from a boy in the service of Sir Edward Doughty, and remained his servant until his death. Sir Edward, when he went to the West Indies, found Bogle a boy there, and took him into his service, in which he continued to the last, and during the whole of the time he maintained a character beyond all question for respectability, honesty, and fidelity to his master which is above all praise. I cannot believe that a man who for so many years maintained so high a character would take up what he knew to be a scandalous and iniquitous fraud; for assuming, for argument sake, that the defendant's claim is not an honest one, still the circumstances were such as might have well led Bogle to believe that the man he was conversing with was Roger Tichborne. He knew very well that Lady Tichborne believed that her son lived, he heard he was in Sydney; he goes in search of him, and while sitting waiting for his arrival a person suddenly comes up to him and says 'Hallo, Bogle! is that you?' and he tells him that he is Sir Roger Tichborne. There was nothing to lead Bogle to assume that he was an impostor; and indeed there is something so startling in a man having the audacity to come forward and prefer a claim when he is not the true man that the first consideration that would occur to Bogle's mind was that he must be the true man or he would never have come forward.

The defendant knew perfectly well that Bogle was in Sydney, though in cross-examination, I am sorry to say, he swore that he did not. He must have been able to form a very shrewd guess as to Bogle's age. He knew from Lady Tichborne's letters that Bogle had been left an annuity; he knew Bogle was a black, and seeing a negro of a certain age, sitting in the courtyard of the hotel, it did not require any great stretch of thought to bring it to the defendant's mind that this must be Bogle. At any rate, there could be no harm in firing the shot. If he turned out to be wrong he would say, 'Oh, I beg pardon, I thought it was Bogle.' If, on the contrary, he brings his bird down, then it is all right. But while I give Bogle unreserved credit for his sincerity in his recognition of the defendant as Roger Tichborne, it is a different matter whether we can place implicit reliance on the evidence he has given. He has committed his fortunes and his fate irretrievably to the issue of the defendant's claim. Lady Doughty was thoroughly persuaded of the dishonesty of this claim, and that Bogle was a party to it, so she cut off his annuity. She is reproached for having done so; but one cannot be surprised at it, if you look at the matter from her point of view. I regret very much that 'old Bogle' has lost the reward that his long services to Sir Edward Doughty fully entitled him to. I am afraid it would be impertinent on my part or I should express a hope that when all this is over the old man might still be considered with reference to his past services, not to anything that he may be thought to have done amiss with respect to this long and difficult controversy. But we must be on our guard against receiving with implicit confidence the statements which he makes, because having embarked all his future hopes and prospects in the same vessel with the defendant, if the defendant sinks he must sink too, and, therefore, he is naturally under the influence of strong motives to do all that he can in the defendant's favour.

There were one or two things which struck me

as being very much in favour of the defendant if they stood uncontradicted, or had not been shaken in cross-examination; for instance, that the defendant should have known the names of the two sons of Bogle—John and Andrew—that is, unless he had seen Guilfoyle beforehand and heard about them from him. Then when Bogle brought some pictures of Upton to the defendant the latter was stated to have said, 'Oh, there is old Upton. However, when pressure was put upon Bogle he was constrained to admit that it was he himself that first mentioned Upton, not the defendant, and that the defendant recognised it only after Bogle told him it was Upton.

There is another thing of which it is desirable we should have a distinct view—how it happened that Bogle was induced to come to this country. The first question is, whether it was a suggestion of his or of the defendant. I think the explanation comes in the end to this. After the first interview the defendant tells Bogle to come and see him again, and on one of those occasions he says that he was going to England. Upon this Bogle remarks, 'There are a good many friends there who will be glad to see you. I wish I was going with you.' The defendant says, 'Well, I will take you.' But Bogle would not go without his youngest son, and to take both would entail considerable expense. But why should Bogle desire to go? His wife was dead, but he had his three sons about him; he had a little business, and his annuity of 50*l.* a year. If he came to England he would have no business, though he would have his annuity. The only explanation offered is that in England the people are more sociable, and that having 50*l.* a year he was glad to go back to his old haunts and associations. But what was the motive of the defendant in bringing him? That is a point to be considered by-and-by when we come to see the surroundings of the defendant, and who were the persons he may have used for the purpose of advancing his claims. Well, Bogle having recognised the defendant, takes him among other things some leaves from a book produced here, and no sooner did he do that than the defendant writes to Mr. Cottie thus:—

'My uncle valet is now living with me he happen to have with him my uncle likeness, and a portion (*sic*) of the Hermitage estate.'

And again:—
'This leave (leaf) is taken from a book which my uncle valet brought from Tichborne with him. It bear the Doughty and Tichborne crest. His name is Bogle, and is now living with me. He likewise has two woodcut of Upton the seat my uncle bought in Dorsetshire, and likewise my uncle likeness. I have in my possession to get them copied, as you have a doubt of my identity. I will send you a copie of my uncle likeness. When you see the one you will see the other I mean myself.'

By 'portion' he probably meant portrait or picture of the Hermitage estate.

But in these extracts there were two things that were certainly untrue. In the first place Bogle was never living with him. But that statement might be explained by the fact that he meant to bring Bogle to England with him, and therefore he may have considered him as attached to him already. But the other thing was neither more nor less than a clear, unmistakable, direct falsehood, for Bogle had no likeness of the Hermitage estate, that estate being entirely a creation of the defendant's imagination. But that is not all. The defendant says, 'He likewise has two wood-

cut of Upton the seat my uncle bought in Dorsetshire.' Now it is perfectly certain that Upton was never bought by his uncle, Sir Edward Doughty; and that fact, as it seems to me, must have been known to Roger Tichborne, because a constant source of unpleasantness between Roger, his uncle Sir Edward, and his father was his persistent refusal to consent to the sale of Upton. The only reason why Roger Tichborne refused to consent to the sale of Upton was that Upton was included in the Doughty property, which had come to the family under the will of Miss Doughty, whereas if the estate in Dorsetshire had been bought by Sir Edward it would have been at Sir Edward's disposal. He could have sold it; it would not have been in the settlements, and, therefore, the consent of Roger would not have been necessary. But how the defendant made the mistake is obvious. Bogle believed, and no doubt told him, that it was bought by Sir Edward. But the fact was it was bought by Miss Doughty's trustees with money which she left for the purpose, and Bogle fell into the mistake in this way. There was not much land going with Upton, and some neighbouring land being for sale, Sir Edward bought it and amalgamated it with Upton. Bogle was well aware that his master had bought property at Upton, and knowing that Sir Edward went to take possession of both at the same time, naturally concluded that Sir Edward had bought Upton.

Now, gentlemen, I have come to the end of the Australian part of the case, and let us see whether we can state the account fairly as between the knowledge and the want of knowledge thus far exhibited on the part of the defendant, and strike a balance between the two. He knew that Roger was the son of Sir James Doughty Tichborne. That he would know from the advertisements he had met with in the papers. He also knew that Roger Tichborne had a brother, and he knew the date of Roger's birth and stated it correctly both as regards the month and year. On the other hand, he did not know where Roger or his brother Alfred was born. He stated they were born in England, whereas they were both born in Paris. Again, he stated that he had remained in Paris until 11 or 12, whereas in point of fact he did stay there until he was between 16 and 17. He said he had been educated at the High School, Southampton, whereas Roger was never at Southampton at school for a single hour. He says that his education was interfered with in consequence of his suffering from St. Vitus's dance, which unquestionably Roger never had or anything approaching to it. Further, he knows that the Tichbornes are a Roman Catholic family; but unfortunately with that comes a statement that they used to pay 3*s.* in the pound to the Roman Catholic Church, which we may safely assume they never did. With regard to his education he makes this further grievous mistake—he omits all mention of Stonyhurst, and exhibits no knowledge whatever of that portion of Roger's life which was passed there. And again, with respect to the next portion of Roger Tichborne's life, his being in the Army, he exhibits entire ignorance of it. And when his mother's statements are repeated, that he had been at Stonyhurst and had been an officer in the Army, he denies both, and substitutes for a service of three years in the Army as an officer 13 days' service as a private in a regiment that could have no existence whatever. With regard to the property in the first place he represents it as entailed, &

that at his death it would go to his cousin, ignoring the fact that he had a brother who, with the heirs of his body, would come between himself and his cousin. He confounds this with a different class of property, which his cousin would not inherit. Then we come to the sale of estates, which had no existence whatever except in his imagination. Certainly there is, in the Wagga Wagga will, a most striking disposition of property which never had been in the possession of the Tichborne family at all. These are matters deserving the most serious consideration. Still more striking is the fact that in making that will he inserts as executor and guardian the names of persons whom Roger Tichborne never knew. And when we come to deal with one or two important facts of Roger Tichborne's life—namely, the ship in which and the time at which he sailed for Europe—he fails to show any knowledge of the circumstances, and substitutes a ship and a time of sailing appertaining to another and entirely different person.

All these are facts you will have to weigh in the scale; but then there is knowledge exhibited on the other side which you must take into account. I have mentioned several instances of it. He manifested a considerable knowledge to Bogle. He has got many of the recollections of Tichborne, and we do not know that these were derived from any source but his own memory. but then he asks Bogle about a man named Etheridge; but when he meets him afterwards at Alresford he does not know him. All these things are to be taken into account. There are exhibitions of knowledge and exhibitions of ignorance, and the question is to which of the two the greater weight is to be attached.

A Juror.—Was Guilloffe at Tichborne as well as at Upton?

The LORD CHIEF JUSTICE.—I think he was gardener at Tichborne as well as at Upton.

Mr. HAWKINS.—Yes, he was at Tichborne.

The LORD CHIEF JUSTICE.—Well, he left Sydney for Panama, and the captains of the different vessels in which he sailed were struck by his want of information. That forms an important element in this inquiry, unless you come to the conclusion that twelve years' residence in Australia, the sort of life the defendant led there, and the persons with whom he came into contact, had so destroyed the effect of his former education as to account for the change. One thing strikes me, and I am sure I do the defendant no injustice in stating it, if there was an interval of as many months as there were years between the disappearance of Roger Tichborne and the appearance of the defendant as Roger Tichborne, and if the two had been placed in juxtaposition; it would have been impossible to say that the man who had had the education and manners of Roger Tichborne could have been the man who presented himself to our observation as Roger Tichborne in 1866. I am quite certain that the man who wrote the letters from South America and sent the extracts from his journal to Lady Doughty could not by possibility be supposed to have been truly represented by the man who, in 1866, wrote the letters to Lady Tichborne and the various persons he was in correspondence with, which we have read. You can only account for the difference by the utter undoing of all that Roger Tichborne had acquired by the life led by the defendant. Well, on board the vessel, which was bound for Panama, some theatricals were got up, and an address was presented to the captain. This address the defendant

was asked to read, and we have evidence to the effect that the attempt on his part was a signal failure. He exhibited in his conversation striking marks of a defective education. He showed a signal instance of this in the case of that ill-used letter *h*. I have known men of education and attainments who had this defect. But Roger had it not. No one ever said that Roger put the *h* in the wrong place or omitted it where it ought to be. But with the defendant it was quite different, and he explained to Mr. Hodgson that the deficiency in his education was owing to the circumstance that he had been subject to St. Vitus's dance. When they arrived at Panama, the defendant became remarkable among the passengers for being able to speak Spanish, but so far as we are aware Roger did not know Spanish. He spoke French, as we know, to the last, as the language of his preference. Having stayed some time at Panama, he then went on to New York, and thence took a passage to London, where he arrived on Christmas-day, 1866.

And now we start with a new epoch altogether in the history of the defendant. Coming up the river something occurs to which it is necessary to direct your attention. You remember in the history of Arthur Orton that old Orton and his son Thomas dealt in Shetland ponies, which used to come up to London by the Dundee steamboat. Arthur Orton, while assisting his brother Thomas, used to come to the Dundee Wharf to help to bring the ponies to their stables, and, of course, he became acquainted with the people belonging to the Dundee boats, and among others with a man named Fergusson, who always acted as their pilot. If we can believe the evidence of the man Bromley, this striking conversation occurred between the defendant and him as the steamer was coming up the river. The defendant goes to him and says, 'Do you know a pilot named Fergusson?' 'Well,' says Bromley, 'there are two or three Fergussons, I don't know which you mean.' 'I will tell you,' says the defendant, 'I mean the man who used to pilot the Dundee boats.' 'Yes, I knew him,' replied Bromley, 'his name was John Fergusson.' 'Oh! yes,' said the defendant, 'that's him.' That was called a highly improbable story by the defendant's counsel, but I confess I see nothing improbable in it. Well, coming up the river, according to Bogle's statement, young Butts, the defendant's secretary, comes to him and says, 'Bogle, what hotel have we got to go to?' Bogle says, 'Better go to Ford's, in Manchester-square. That's where the family always stay.' Butts takes the message back, and from the wharf defendant, his wife, and family go to Ford's hotel, Bogle and Butts being left behind. The defendant says it was within his own knowledge that the family was to stop at Ford's. At all events he goes to that hotel and must have arrived there about five or six o'clock in the afternoon.

The first thing to be done was to order dinner, an essential necessity of human life, whatever other object we may have in view. What does the defendant do? It was Christmas-day. Arrived after a long voyage glad to be relieved from the tossing of the waves, in a comfortable hotel, with a nice fire and cheerful rooms, you would naturally expect that the man would say 'I'm very glad that I am here at the fire-side with my wife and children. I will put off any matter of business until the next day. But not so, says the defendant. We learn that that very evening, a cold December evening, the defendant sends for one of those shapeless, rumbling vehicles, which

are a disgrace to a civilised country, a four-wheeled cab, and away he goes to the extremity of London, to a district called Wapping, and there is enacted a scene which, if true, is certainly of a very remarkable character. The defendant arrives between 8 and 9 o'clock at the Globe public-house, kept at the time by a widow named Jackson. The defendant, in a pea packet, with a muffler about his throat, and a peaked cap on his head, enters. It has been suggested that this dress was intended as a disguise. But then it must be said that this was a time and season when a man would wrap himself up so as to be able to better encounter such an ungenial climate as ours. There were no persons in the house but Mrs. Jackson and her mother, Mrs. Fairhead. The stranger asks for a cigar and a glass of sherry. They give them to him. Then he begins to talk. He asks, 'What has become of the Ortons? They used to live in the High-street. I have been there knocking, and I cannot get in.' 'Oh, no,' says Mrs. Fairhead, 'they are all gone. Old Orton is dead, and so is Mrs. Orton, and the family are all dispersed.' Then he asks, 'Where is Mary Ann?' 'Oh, Mary Ann was married to Mr. Tredgett, but she is a widow, and is keeping a lodging-house somewhere in the East India-road.' 'Could you give me her address?' says the stranger. 'No, but I can easily get it for you. Her brother Charles has set up as a butcher, and is here at the end of the street. We can send up to him.' 'Oh, no,' says the defendant. 'I don't want to have anything to do with Charles, I only want to know about Mary Ann and to get her address.' While she is preparing to go and get the address he says, 'Did you take this house of Mrs. Mac—Mac?' 'Macfarlane,' suggests the lady. 'Yes, that's the name,' says the defendant. Then he looks out through a glass door which opens on the street and inquires about the Cronins and others who used to live about the place. The defendant then walks along the passage which led up to the parlour, then he walks back again and says 'I declare this house has not altered a bit.'

Meanwhile, Mrs. Fairhead has made all her preparations for going out to get the address, and being very much surprised by this conversation and the knowledge manifested by it, she looks up at the defendant, and being struck by his likeness to old Orton, she says, 'You must be the Orton who left some 12 or 14 years ago and has not been heard of since.' 'No,' said he, 'I am not, but I am a friend who has come to assist the family.' 'Well,' she replies, 'you are very like the family. You are very like the old gentleman.' Then she makes an observation about his knowing the place, and she says, 'You seem to know all the people about here.' 'Yes,' says he, 'I was at Wapping some 12 or 14 years ago.' Fourteen years from 1866 would be 1852, which would be about the time when Arthur Orton was last at Wapping, but would be inconsistent with anything connected with Roger Tichborne. Mrs. Fairhead having gone out, Mrs. Jackson gets into conversation with him, and at the end she says, 'You must be Orton.' He asks, 'What makes you think so?' 'Because,' she replied, 'you are really like both the father and mother.' And then she says, when he had asked her so many questions, 'You really know Wapping better than I do. You must know it very well.' Then he varies the date and says that he was there 16 years ago. That would take us back to 1850, but, though that is not the precise time, we know Arthur Orton was there in 1851. Well, Mrs. Fairhead comes back and gives

him Mrs. Tredgett's address. Then we get from the defendant that he went to Mrs. Tredgett's that evening. Both these witnesses concur in saying that the defendant was from three-quarters of an hour to an hour talking there, smoking his cigars and drinking the sherry which they supplied him.

Now, it is right we should have the defendant's statements with regard to this story. What the defendant has said on the subject must be borne in mind, as you are called upon to decide whether the witnesses told the truth. The defendant himself admits that he did go down to Wapping on this particular night; that he did visit the Globe public-house; and that he had a conversation with the woman who kept the house. In cross-examination he was asked:—

'Where did you go to in Wapping?—I had an address on a bit of paper, but really I cannot remember. Whose address?—It was the address of his father, I think. The address of Arthur Orton's father?—Yes. And you went there to see not your mother, but his father?—I know I went there to make inquiries. The first night you landed?—Yes. Did you find the father?—There was nobody there. Was the house pulled down, or empty, or what?—Empty, I should imagine. What else did you do?—I went into an inn close by. Do you happen to know the name?—I do not. Did you have a glass of beer?—I cannot tell. Where did you go to next?—They gave me some address; I am sure I do not know it. Gave you some other address. Whose address?—I think it was the name of Tredgett. Man or woman?—A woman. Quite a strange name to you?—Quite. Did you go to her?—I went to the address.'

Further on the examination was as follows:—

'What time did you get down to Wapping?—It must have been between 9 and 10. Were you not at the Globe as early as 7?—No. Kept by Mrs. Fairhead—no, Mrs. Jackson?—I do not know who it was kept by. Did you go alone?—I did. To Wapping?—Yes. How were you dressed; were you muffled up? The probability is I was. Now, was the first question you asked the person you saw there whether she could give you any information about the Ortons?—Yes, and where they had gone to. Did you say you knew of the death of the old lady?—No, I certainly did not say that. Mrs. Fairhead was the person I suggest you said that to?—I do not know what the name was. Did she tell you that Mary Ann Orton had married with Mr. Tredgett, and that Mr. Tredgett had died within about nine months of the marriage?—I believe she did say that. Did she tell you that Mrs. Jury, another sister of Orton's, was at the time living with Mrs. Tredgett, her sister?—I do not remember that part of it. Did you then ask if she could give you Mrs. Jury's address?—No, Mrs. Tredgett's address. Mrs. Jury's address is what I ask?—No. Did she say she could obtain the address for you close by, and send to an old servant of the Orton family?—No. I think she gave it to me there and then. While you were there did she mention the name of Charles Orton?—No. And did you say, "I do not want to see him"?—I did not. Did you ask if a Mr. Cronin still kept the grocer's shop opposite?—I did not. Did she say, "Well, Cronin failed, and has gone away"?—She did not. Did you say, "I am sorry to hear Cronin has failed"?—No. Did you then ask after a Mr. John Warwick?—I did not. Did a butcher who lived close by?—I did not. Did you ask if the son of a Mr. Wright, ship-chandler, it

next door to Orton, had come back from sea?—I did not; neither do I know such a person. Did she say—I am speaking now of Mrs. Fairhead?—“Why, you must be one of the Ortons?”—She did not. And did you say to her, “I am not one of the Ortons, but I am a friend of theirs?”—No such conversation passed. I ask you whether, after this had taken place, another woman who had been present (the landlady herself of the Globe, Mrs. Jackson), whether she did not interfere and say, “You are an Orton; you are like both the father and mother?”—She certainly did not. Did you say, in answer, “No, I am not; I am merely a friend of the Ortons; I have come from a brother to assist Mrs. Jury?”—I did not. Do you recollect did she say, after you had been talking some time about these people, “Well, if you are not Orton, you seem to know Wapping pretty well, at any rate?”—She did not. Were you not there nearly an hour?—Certainly not. Having a long conversation about Wapping and the people at Wapping?—I was not there more than seven minutes.

The learned counsel for the defendant asked you to give your decision in favour of his client, on the ground that the witnesses have committed perjury, because they were bribed and tutored by Whichever to give evidence respecting these conversations. The old lady, Mrs. Fairhead, appeared to be very hurt and indignant at this suggestion, and the daughter appeared to share the indignation of her mother. Whether that indignation were real or simulated you had an opportunity of judging. To me they appeared to be two very respectable people of their class, and, as far as I could judge, they did not give their evidence in a way calculated to excite distrust. This, however, is peculiarly a matter for a jury to judge of. Supposing you believe these witnesses to be telling the truth, it will be for you to consider whether Roger Tichborne could possibly have been possessed of the information which is implied in all the inquiries about persons formerly known in Wapping. How could Roger Tichborne have got the information unless, indeed, we adopt the theory of the learned counsel for the defendant that, during their intimate intercourse in the bush in Australia, Arthur Orton talked to Roger Tichborne so much about people living in Wapping that the mind of Roger Tichborne became imbued with the knowledge of all these people?

Another point to be decided is, “Why should Roger Tichborne have gone to Wapping?” According to the defendant’s account he went there because he wanted to make inquiries about the Orton family, partly because Arthur Orton had asked him to get information on the subject, and partly because he had promised Arthur Orton to assist the Ortons in case they should be in indigent circumstances, and required pecuniary aid. What would you have expected a man to do under such circumstances? Instead of starting at night and going to Wapping in the dark to make inquiries, would it not have been abundantly sufficient for him to have gone there the next day? You must of course look at these things with the eye of reason and common sense. If the defendant went to Wapping immediately on his arrival in country, would it not be in consequence of some more pressing motive than a mere desire to perform an act of friendship?

And now let us see how the defendant followed up what he had done on the night before. The first thing the next morning he starts and goes down to Wapping again, when he goes to Mrs.

Tredgett’s address. He is told by a neighbour, Mrs. Moore, that Mrs. Tredgett was not at home, but there was a Mrs. Pardon, who, I think, was the sister of Mrs. Tredgett. She sent the defendant to Mrs. Pardon, and he introduces himself by sending in a card on which was written, ‘W. H. Stephens, of Australia.’ He tells her that he called the night before, and found the house closed, and could not get an answer. She, knowing the Orton family, said, ‘Are you an Orton?’ and he said, ‘No; but I am a great friend of Arthur Orton, who is one of the wealthiest men in the colony, and I promised him that I would inquire after his sisters.’ He gives some account of himself, saying that he had come over to report upon the Fenian movement in Ireland. In course of conversation he showed her a locket containing the likeness of a lady and a baby, telling her they were the likenesses of Arthur Orton’s wife and child, and he ends by giving her a letter addressed to Mary Ann Orton, at 69, High-street, Wapping, and requesting her to forward it. She is so impressed with the likeness that she put it to him a second time whether he was not an Orton. In the afternoon Mrs. Tredgett receives a letter and opens it in the presence of Mrs. Pardon. That letter is as follows:—

‘Wagga-Wagga, N.S.W., June 3rd, ’66.

‘My dear & beloved Sister,—It many years now since I heard from any of you. I have never heard a word from any one I knew since 1854. But my friend Mr. Stephens is about starting for England. And he has promised to find you all out. And write & let me know all about you. I do not intend to say much because he can tell you all about me. Hoping my dear sister he will make him welcome has he is a dear friend of mine so good bye.

ARTHUR ORTON.

‘-): (-
‘M.’

To this letter is affixed the Arthur Orton hieroglyphic, which is attached also to the letters written by him to Miss Loder and his sister in 1856. Therefore, who ever wrote that letter must have perfectly well known the hieroglyphic of Arthur Orton. That this letter was written by the defendant there is both internal and external evidence. It could not have been written at the place or on the day of its date, for the defendant, by his own admission, did not make the acquaintance of Mr. Stephens until his passage from New York, when he fell in with him and he gave him this card. Now, let us hear what account the defendant gives of the transaction in his cross-examination. The card of W. H. Stephens, of Australia, is handed to him, and it is acknowledged by him, but not until considerable pressure is put upon him. He is asked—

‘Did you ever see that card before; just look at it!—Yes (reads) “W. H. Stephens.” And who wrote “Australia” on it?—I certainly cannot say. Keep it in your hand.—It looks very much like my writing, the word “Australia,” but still it is not mine. It looks similar, but I do not think it is mine. Whose writing is the “W. H. Stephens”? Do you know?—No. I do not; I should think it would be Stephens. Did you ever have anything to do with that card before? Did you ever see it?—I do not remember. I might have done. I do not remember that I did. Did you receive that card from Mr. Stephens, or write it yourself?—It is not my writing. Look at the signature of these two letters, signed “W. H. Stephens.” Is it anything like that?—I do not think it is. Does it look as if it had been im-

tated?—Good gracious me! no. We'll see in a minute. Did you leave the card at Mrs. Pardon's?—I don't know who she is at this moment. Did you leave that card with the person to whose house you went to inquire about the Ortons?—I believe I left the card. I don't know about the word "Australia."

After a long cross-examination, the defendant admits that the word 'Australia' was written by him, but only that word. All along the defendant fences with the question, when he had no doubt in his mind that 'Australia' was in his own handwriting, and that that was the card which he left at Mrs. Pardon's, so as to pass himself off as W. H. Stephens, a reporter who had come over to report on the Fenian movement. He admits having asked Mrs. Pardon for the address of Mary Ann Orton, but he denies that Mrs. Pardon taxed him with being an Orton. He is then asked about a locket which Mrs. Pardon says he exhibited to her as containing the photograph of the wife and child of Arthur Orton. But this he denies. I do not think this point is one of very much importance as regards the main subjects of inquiry, but it is important as testing the truth of the defendant's story. What was his reason for saying he was Stephens, a reporter, was a question pressed on him by the Attorney-General, and his answer was that he merely wished that they should not know who he was. He admitted in cross-examination that he knew the substance of the letter signed Arthur Orton to Mary Ann. Of course he did, as he afterwards admitted that he wrote it himself. At first he denied that Miss Loder was mentioned, but it was as follows:—

"If you will kindly "communicate" with me, you will hear of something to you advantage. Please send what information you can concerning a lady named Mary Ann Loder and your own family, and what became of Thomas Orton's children."

Further than the admitted facts that he went there under an assumed name and character—that of 'W. H. Stephens'—that he kept up a correspondence in a feigned hand, and made use of forged letters, I do not know that the conversations with Mrs. Pardon are of any importance, but it swells the number of persons who are at direct variance with the defendant and who are charged by the defendant's counsel with telling direct falsehoods. On the 7th of January he writes to one or other of the Orton sisters in terms which necessarily imply that he had received a communication from the person to whom the letter was addressed. It was in these terms:—

'Gravesend, 7 Jan. '87.

'Dear Madam,—I received your kind letter this morning and very sorry to think you should be so mistaken as to think I am your brother, your brother is a very great friend of mine and whom I regard as a brother. And I have likewise promised to send him all the information I can about his family I cannot call on you at present but will do so before long. I sent your sister a likeness of your brother wife and child this morning I should have sent you one But I have only one left which I require for Copying I have likewise one of myself which I intend to get some copy of I will then send you some of each My future address will be R. O. T. Post Office Liverpool Liverpool. Hoping to have the pleasure of making the acquaintance of my friends sisters before long. I remain yours respectfully

'W. H. STEPHENS.'

The defendant says he cannot recollect which of the sisters the letter was addressed to, but he admitted it was written in a feigned hand. The whole drift of the cross-examination is to make it appear that Mrs. Tredgett or Mrs. Jury had conceived the idea that the defendant was her brother from the similarity of the handwriting; but I do not know that this is of very great importance, for it could only have been an opinion which could not amount to anything like a positive certainty.

Then there is a long cross-examination as to the contents of the letter, and also as to why he sent a photograph of his own wife and child as being the likeness of Arthur Orton's wife and child. All the explanation he can give is that it was indiscreet. He promised to send one of Arthur Orton, but he admits that he had no photograph of Arthur Orton, and only one of himself. He is asked what was his motive, and first he says he cannot tell, and then he gives this motive—'Having said I had a likeness of his wife and child, they bothered my very life out until I sent one of my own.' One of the most curious incidents in this story is his sending a photograph of his own wife and child as the likeness of Arthur Orton's wife and child. Not, however, that I think this of any great importance. I take it that his real object was to sever as much as possible his own identity from that of Arthur Orton, and to lead these people to believe that he was a distinct person from Arthur Orton; and he sent the photograph of his own wife and child because that was the first to come to hand. Then the defendant is cross-examined as to why he desired further communications to be addressed to Liverpool. At first his explanation is that he had an idea of going to Ireland; but after a bit he gives that up, and then offers what probably was the true explanation. 'Probably I did it because I did not want to be bothered any further with them.' He had got all that he wanted in the way of information, and then he desired to discard these correspondents. Next he is asked as to the statements contained in that letter. 'Is there a single word of truth from beginning to end, including the signature; or is it false from beginning to end?—I think it is all false from the beginning to the end.' The defendant states that one of the letters was shown to Mr. Scott, and that, although he had written it, he at that time denied it, and denounced it as being a forgery.

The questions naturally present themselves—For what purpose was all this elaborate machinery of fraud and forgery of correspondence under a feigned name carried on? Why should all this have been employed? Why should Roger Tichborne have done all this? The only way in which one could suppose that such action was used would be as a means of getting information from the Orton family without letting them know who he was. But then the question arises, Why should he hesitate to let it be known who he was? Why should he hesitate about being recognized as Roger Tichborne when he came home to this country to claim his position? Where was the necessity of all this concealment? I confess I cannot see what purpose Roger Tichborne could have had in his mind for adopting such a course of action. The defendant, in the course of his cross-examination, gives another reason: He says, 'I went to Wapping to ascertain whether Arthur Orton had arrived.' Can this be really true? If the defendant was Roger Tichborne, could he have supposed that Arthur Orton arrived in England at the ear

time as himself? The defendant says that at the time the will was executed Arthur Orton was at Wagga-Wagga, and that he afterwards went away; and in a letter to Rous he said that Arthur Orton was living at Wagga-Wagga under an assumed name. Nor does it appear that when the defendant went to Wapping he made any inquiries about Arthur Orton. He says he did. On the other hand, Mrs. Jackson and Mrs. Fairhead say that he did not make one single inquiry about Arthur Orton, but that, on the contrary, they charged the defendant with being the Arthur Orton whom they formerly knew. Therefore, I cannot accept the defendant's last explanation as the true one. It does not appear either that he ever communicated to any one what he had ascertained from the Ortons. Then, with reference to giving assistance to the Orton family, it does not appear that he acted in that manner, but he put them on the false scent by stating that he had gone to Liverpool, and in his cross-examination he said he told them so because he wanted to get rid of them. What motive could the defendant have had for this concealment?

Well, his counsel starts a theory, or rather two or three theories, but they are not the explanations of his client; they are his own theories. He says that Arthur Orton and Roger Tichborne were associated together in the forests of Australia, and that it is not at all improbable that they were mixed up in some transaction which would not bear the light, and Roger Tichborne may have been a party to or, at all events, privy to, some deed of violence; or that the defendant may have been in some affray in which Arthur Orton saved his life, for which the defendant may have felt himself under some debt of gratitude. In the first case the defendant's counsel suggests that Arthur Orton, under threat of exposure, compelled the defendant to look after his family. It is strange that these explanations have never been suggested by the defendant, and a more remarkable thing is that when the defendant's counsel first started these theories he did not say to the defendant, 'Now, which of these is the truth?'

The learned counsel, who starts half-a-dozen of these theories, would have done better if he had said to his client, 'How came you to go to Wapping?' But the learned counsel for the defendant has laid down for himself a totally different course. He says, 'I am not my client's confessor, and don't choose to ask him impertinent questions.' That is the principle of the action of the learned counsel when it is divested of its ornamentation. I should have thought that the first thing a counsel would have done would have been to ask his client, if he had been able, to tell him the truth in a question of difficulty, but that is not the course pursued by the defendant's counsel. Perhaps the course which he did pursue was the most convenient, as leaving the conscience free to give full scope to the imagination, provided, of course, you have not first taken the trouble to ask your client the truth.

Whatever theories may be put forward, I cannot help looking back to the question with which I started—What could have been the motive of Roger Tichborne for this concealment? The moment the suggestion was made that the defendant was Arthur Orton, the defendant might have been advised by his friends, if he had consulted them, to go at once to the members of the Orton family and challenge them to say whether he was or was not Arthur Orton. That would be the short way of settling the question. But that

course was not adopted; on the contrary, the defendant not only avoids seeing the Ortons until a much later period, when things are further advanced, but he actually denies to his own intimate friends and supporters the fact of his ever having been to Wapping at all. The suggestion that he was Arthur Orton was first made in 1837, and it came to his knowledge in October of that year, and he refers to it when he writes, on the 20th of October, 1837, to Mr. Rous. He is cross-examined on this point:—

'Why did you tell Mr. Rous that you had never been at Wapping?—I did not choose that he should know. Why did you tell him?—Why should I not? Because it was a gratuitous lie, if you ask me. Why should you have said you had never been there? you might have held your tongue. Why did you tell him that; you had been there, you know?—Yes, I had been there. Had you forgotten you had been there on Christmas-day, 1836?—Probably I had, when I wrote that letter. . . . Why did you not mention to anybody you had been down to Wapping?—I do not see why I should mention it. Did you take care not to mention it?—Probably I did. Why?—Because I had my reasons for going there, but I should not care about telling.'

The learned counsel for the defendant made a great point of the visit to Wapping, with reference to the Arthur Orton part of the case. He said, 'Can you suppose that if he were Arthur Orton he would go to the place where he would be most likely to be known, and expose himself to the risk of being told "You are Arthur Orton"? This point we shall have to consider when we come to the Arthur Orton part of the case, but I now put it to you whether you think the evidence and the conduct of the defendant on that occasion are reconcilable with the conduct you would have expected from Roger Tichborne. On the same day that the defendant went to Mrs. Pardon's and left a letter for Mrs. Tredgett he took his family from Ford's Hotel to the Clarendon Hotel at Gravesend, though Bogle remained at Ford's. Now, this seems a somewhat strange proceeding. Here is a man who comes to England to put forward his claim to the title and estates of Tichborne. You would have supposed that on his arrival he would have communicated with his mother and with his relatives and friends in this country, but instead of doing so he goes to Gravesend, and there remains in a species of concealment for several days. He says his purpose was to keep out of the way. A great many inquiries after him were made as soon as he arrived at Ford's Hotel, and he had promised his mother faithfully to see no one until he had seen her. What time could there have been for the announcement of his arrival at Ford's between the evening of the 25th and the afternoon of the 26th of December, seeing that nobody except Lady Tichborne knew by what route he was coming home, and she, be it remembered, was in Paris?'

Well, on Saturday, the 25th of December, he goes to Alresford and takes up his quarters at the Swan, which was kept by Mr. Rous, formerly a clerk to the solicitors of the Tichborne family. Mr. Rous had a perfect knowledge of all the settlements and deeds prepared by the firm relative to the Tichborne and Doughty property; therefore, he would, of course, become a valuable ally even to Roger Tichborne himself, as he would be able to inform him of many things which had occurred since he left home; and still more valuable would the

alliance of Mr. Bous be to anybody who had never had a knowledge of the things which Roger Tichborne ought to have known and might be expected to know. The defendant establishes himself at the Swan under the name of Taylor, he having, as he says, assumed that name because of there being the initial 'T' for Tichborne marked on his carpet bag.

He tells us that on the Sunday he took a walk. He went towards Tichborne, and saw the people coming out of church. On that occasion he met an old blacksmith named Etheridge, but nothing can be more conflicting than his statement and that of the defendant as to what occurred. Etheridge says he was going to get shaved when a stout man, whom he did not know, stopped him and asked the way to Tichborne. Etheridge said, 'Why there is the church,' which, I should remark, is on an eminence. Thereupon the stranger says, 'Would you like to have a glass of beer?' He says 'Yes,' and the defendant gives him certain small coins. Etheridge drinks his beer and gets shaved, and is going back to Tichborne, when he falls in with the same man again. The man says to him, 'They say Roger Tichborne has come back.' 'Oh! no, he has not,' replies Etheridge, 'he was drowned.' After some further talking the stranger says, 'Do you believe I am Roger Tichborne?' 'No, I'll be — if you are. (Laughter.) If you are you have turned from a race-horse to a cart-horse.' Of course Roger Tichborne must have known every inch of the road perfectly well, but then he may have asked the way to Tichborne merely in order to draw Etheridge into conversation. The defendant, however, gives a totally different account of the conversation which was held between them, and there was also a discrepancy as to Etheridge's story about Roger Tichborne striking Etheridge's cat, in consequence of which the blacksmith pursued him with a flail. The statement that this story of the cat was talked over on various occasions during the defendant's passage home from Australia is not quite consistent with one of Bogle's statements that he had no conversation with the defendant respecting his being Roger Tichborne on the passage from Sydney to Panama, or during the month they stayed at Panama, or on their voyage home. With all my predilection to think Bogle truthful,

that is one of the things which I cannot bring myself to believe.

On the next day, the 30th, the defendant communicates to Mr. Bous the fact that he is Roger Tichborne. He says he did so in consequence of Mr. Bous directly putting the question to him. Then the defendant telegraphs to Bogle, who was in London, to come down to Alresford immediately. Bogle accordingly goes down the same evening, and at the station he finds 400 or 500 people assembled in order to welcome him back. Next day, being the 1st of January, Bogle attends the Catholic chapel at Tichborne, where he meets Mrs. Greenwood, who procures for him admission into the old house, where he observes two pictures of the Dowager Lady Tichborne, which were not there in his time. But, on his return, the only picture the defendant asked him about was the 'Queen's Picture'—a portrait of Queen Elizabeth with a ruff round her neck. The circumstance of Bogle going down and announcing to all the world that the defendant was Roger Tichborne was calculated to produce a powerful impression on the Hampshire people. I can, therefore understand the defendant saying to himself, 'I don't care what my mother has said; I will have Bogle down to Alresford, as he is the best proof I can produce of my being Roger Tichborne.' But then the question arises why the defendant himself went to Alresford. I can understand Lady Tichborne, who hated the Seymours, wishing him not to declare himself till she had seen him. He gives two explanations of his going to Alresford, one in his evidence and another in a letter addressed to his mother. In his evidence he says, 'I went to Alresford to look at the dear old place again,' but surely he had a much more powerful motive to go to Paris to see the 'dear old mother' again. He says he did not go to Paris because he had not sufficient funds, though this is somewhat doubtful. The only motive I can see—and I suggest it for your consideration—is that, before he went to see Lady Tichborne, he desired to acquire a knowledge of the localities, lest in any conversation with her he might betray such ignorance of the things connected with Alresford and Tichborne as would excite suspicion and create distrust in Lady Tichborne's mind. This is the only way in which I can account for conduct that otherwise appears to me to be incapable of explanation.

NINTH DAY. *February 11, 1874.*

Gentlemen,—We finished yesterday with the visit of the defendant to Alresford. Bogle, you remember, had been to Tichborne-house and had seen the pictures there. He had, no doubt—we may, I think, fairly assume he had—made a report on the subject to the defendant, and very soon after they left Alresford, and the defendant proceeded to Gravesend. Two or three days afterwards, and while the defendant was still at the hotel there, Mr. Gosford went down to see him. The fame of his arrival in England and of his having visited Alresford had been bruited about and created a strong interest and curiosity in the minds of those who had been previously well acquainted with Roger Tichborne. Of course Mr. Gosford felt a deep interest in the fact of Roger's return, and was very anxious to know whether the Claimant was the real man or not. Accordingly he went down to Alresford, but, unfortunately, as I cannot but think, he was induced by some circumstance or other to take with him Mr. Cullington and Mr. Flowdan, a distant relation of

the family. It was an unfortunate course to adopt, because it naturally offended the defendant to find that Mr. Gosford had come to see him accompanied by a lawyer and a comparative stranger. I must say the whole proceeding was rash and improper. They had no possible right to disturb the privacy of the defendant, whether he was Roger Tichborne or whether he was not. Mr. Gosford had no right whatever to go down with two strangers and endeavour to force himself, either with them or without them, upon him. Still less had they any possible or conceivable right to treat him in the way which they did on that occasion. He did not choose to see them. He went to his room and shut himself in. They made a disturbance, spoke disparagingly of him to the landlord, told him to take care of his spoons, talked about the police, and, in short, misconducted themselves. It was very unfortunate, in all respects, as the sequel shows, as it gave the defendant ground to say that from the very first he had been ill-used by persons who professed to be interested on behalf of the family.

'They came down,' he might say, 'to molest me; they conducted themselves in a most improper and unbecoming manner, and, assuming them to be representatives of the family, and to have come on their behalf, I have a right to assume that they are all opposed to me.' If Mr. Gosford had acted differently, then the inference arising from the defendant keeping aloof from the family and not seeing any member of it would have been infinitely stronger than it is. Having said this, however, it may occur to you that the defendant, assuming him to be Roger Tichborne, might have said, 'I do not want to see Mr. Cullington or Mr. Plowden; Mr. Gosford I will be very happy to see, to renew old recollections and recall old associations.' It may be, however, that from anger and indignation he would decline to see Mr. Gosford as well as those who accompanied him. Declining to see them, he wrote a note to Mr. Gosford, stating that he did not want any one to know where he was staying with his family, and adding that he had posted a letter for him to the care of Mr. Cullington in Cannon-street. That letter, if it was written, was never received.

Now, what is the defendant's own explanation of not having seen Mr. Gosford? It was not merely that he was angry at the intrusion on his privacy, but he gives another reason in his examination, and says that he had seen Sir Charles Clifford on his way to England, and that he informed him that Mr. Gosford had sworn that Roger Tichborne was dead, and he said, 'I could not make out how any one could swear that I was dead when I was not. That is the reason,' he adds, 'I did not go to see him. I was determined not to see him until I saw my mother.' Well, that explanation is not as satisfactory to my mind as if he had said he was angry at the time, and therefore declined to see Mr. Gosford. It afterwards occurred to Mr. Gosford, mind, that if he went down by himself the defendant would see him, and he accordingly saw Mr. Holmes, who arranged that the interview should be had. Mr. Gosford has given us an account of the interview, and the conversation which passed between them is certainly very important, because, as I have already pointed out, the knowledge or the ignorance of the defendant at the earlier stages of his history are far more important than what he knew or did not know later on. Here is the account Mr. Gosford gives of it:—

'The defendant came into the room, and Mr. Holmes stood just inside the door. The defendant appeared to be very nervous, and stood twisting his cap about in his hand. I don't think he spoke for a few moments. He looked scarified, and I was astonished, from his appearance, at his coming forward as Roger Tichborne. At last he came forward and said, "How do you do, Mr. Gosford?" and offered his hand. I don't know whether I took it or not; perhaps I did. I said, "I don't know you," and shortly afterwards I commenced the conversation by making some remarks about Tichborne. I think I said, "You will remember your old days at Tichborne, I dare say." I forgot exactly what was the next question, but soon afterwards I said, "How is it you have not been to see the Seymours?" He replied, "You mean mamma's relations." That struck me as peculiar, because Roger Tichborne always used the word "mother." Then I asked him if he had seen Mrs. Towneley, and he said, "I don't remember Mrs. Towneley." I am sure that he had never heard the name before. Then we got into a further conversation, and I think Mrs. Holmes helped him a

little. Then I asked him why he had not been to see Lady Doughty, and he said that he had not been. Then he told me that he had been down to Alresford and seen Mr. Hopkins and Mr. Lipscombe, and that they had recognised him, as had also old Etheridge. I then asked him whether he remembered the names of two pet dogs which formerly belonged to Roger Tichborne, and he did not remember.

Now, gentlemen, if you believe this account which Mr. Gosford gives of the interview it will be most important, because you will recollect that his remembrance long afterwards of the names of those two dogs, Spring and Pie-crust, induced several people to recognise him as being Roger Tichborne. Well, Mr. Gosford proceeded to press as to a certain accident which occurred to Sir Roger. He and Roger were out one day riding. They were hastening across country to get home in time for dinner, Sir Edward being always desirous that his guests should be punctual at the dinner-hour. They got their horses rather out of breath; and, as they were going up a steep hill, they both jumped off and breathed their horses while they walked to the top of the hill. Roger was getting into his saddle again, when he touched his horse's flank with one of his long spurs, and the horse bolted. He was still clinging to the saddle, and could not control the horse, which went right at a gate and dashed it down, throwing his rider. Mr. Gosford picked him up, and found that no limbs were broken. The defendant had not the slightest remembrance of this accident, though Mr. Gosford led him as nearly as possible up to it, without telling him exactly what it was. Nor could he remember another circumstance—that about his horse running away in the hunting field, having been frightened by Roger's hat falling off, and about his throwing himself off in order to get clear of the horse.

Gosford then asks him about Upton; and here again is an important point, if you place reliance on Mr. Gosford's statement, because the ignorance here shown with reference to Upton stands in striking contrast with the knowledge the defendant afterwards manifested to a witness who was entirely converted to his side by the knowledge the defendant exhibited. Gosford asks him if he remembered Upton, and he says, 'I don't know much about it.' He is then asked if he remembers the island, and the story of the poacher came to Mr. Gosford's mind. The defendant did not remember the island, and Gosford says, 'I do not believe he had ever heard about the island. His answer gave me that impression.' That, however, is a mere impression. Nor could the defendant remember the particular circumstance which occurred on the island, though Mr. Gosford led him up to it. Mr. Gosford next puts what is a very crucial question. Mr. Slaughter, who was dead at this time, was, as we know, the confidential solicitor of Roger Tichborne. He drew his will, and was a party to its execution. 'Do you remember Mr. Slaughter?' asked Mr. Gosford. The defendant seemed to hesitate, and then said 'I do not remember Slaughter.' Next he was asked who made his will. The defendant again hesitated, and Mr. Holmes made some explanation, or gave a look at him, or something of the kind, and then the defendant replied, 'Oh, Hopkins, of course!' Now, gentlemen, we know very well that Mr. Hopkins did not make the will; it was Mr. Slaughter who made it. Roger Tichborne wished to make his will without the knowledge of his father. He knew that Mr.

Hopkins was in the confidence of the Tichborne family, and Mr. Hopkins Roger himself did not like. I gather that from a passage on this point in a letter to Roger from Lady Doughty, in which she said she was amused to hear that he had travelled in the same carriage with Mr. Dunn, adding, 'I know your love for the firm of Dunn and Hopkins.' Of course that was said ironically, and she meant the reverse of what she said. It is difficult to suppose, if Mr. Gosford is right in the conversation, that Roger Tichborne could have made such a mistake, but that a person who was not Roger Tichborne might have fallen into the error I can well understand, because, having been to Alresford, he would have learnt from Rous that Hopkins had been the family attorney.

Then Mr. Gosford lays a little snare for him. He says, 'Do you remember Mr. Cullington?' and the defendant said, 'Yes.' This was a trap, and he fell into it, because Roger Tichborne never had known Mr. Cullington, as the partnership between him and Mr. Slaughter did not take place until after Roger Tichborne had left. Then Mr. Gosford asks him about Moore, and when Moore left him, and his answer was, 'He left me at Montevideo.' Now, that was not the case, because Moore left Roger Tichborne at Santiago. Then Mr. Gosford says he asked him, 'How did you get to Montevideo?' and he replied, 'By ship.' What made him ask the question was, he says, to see if he would say anything about crossing the Pampas, because there was a very remarkable ride, to which Roger Tichborne would have alluded. Then Mr. Gosford was asked, 'Was any reference made by you to anything sent over to you?'—Yes. I asked him if he remembered sending me a box from South America, and he distinctly said he did not. Roger had, as we know, sent home the boots and leathers in which he had crossed the mountains and a number of curiosities besides. Then, he said, he asked him whether he remembered leaving a horse, and he knew nothing at all about it. Now I think there must be an inaccuracy here, and my reason for saying that is this—whether the defendant be Roger Tichborne or not, he knew from some source or other that Roger had left a horse with Mr. Gosford, because he mentions the fact in his letter to Lady Tichborne, which is not forthcoming, but in referring to the horse he mentions it as 'Plenipo.' Roger Tichborne did leave a horse with Gosford to take care of till he returned, but that horse was never called 'Plenipo.' So you see we have here one of those curious combinations of knowledge and want of knowledge which so frequently occur in this case. Well, the time having come to leave by the train, the defendant purposing to go to town, they went to the station, and got into the same carriage. The conversation flagged at first. Mr. Gosford tells us:—

'He asked me how Percival was. I said, "Who?" as I could not think at the moment who he meant. He replied "Percival Radcliffe." This struck me very much, as I had never heard any of the family call him anything but Percy.'

We know that Roger Tichborne and Mr. Radcliffe never met but once, and that was in 1848, when Roger was at Burton Constable, and Mr. Radcliffe and Roger played in some private theatricals. How then, it may be asked, did he know the name in connection with the Tichborne family. That I think may be explained by his having seen the *baronetage* at Sydney, for he would find there that

the only daughter of Sir E. Doughty had married Percival Radcliffe, the eldest son of the baronet of that name. As he had only seen Mr. Radcliffe once, and that so long ago as 1848, he could scarcely have felt any particular interest in that gentleman's health. Then follow some remarkable answers, if the account Mr. Gosford gives us of the conversation be accurate:—

'I said, "Do you remember being quartered in this country?" and he replied, "No." I said, "Have you forgot being at Canterbury?" He said, "No; but I forgot for the moment that Canterbury was in Kent." I then asked him about Ireland, and where he was quartered, and he said, "In Dublin." I said "Where else?" and after thinking awhile he said, "The Curragh of Kildare." I recollected at the moment that in Roger's time the Curragh Camp had not been formed.' In reference to that the learned counsel for the defendant said that the Carabineers might have been exercised there. So they might if they had been quartered near enough, but we know that the Carabineers were never stationed at Newbridge, which is the military station nearest to the Curragh.

The examination of Mr. Gosford goes on, and the next question is important, because it refers to the accident at Cahir, by his knowledge of which some of the Carabineers recognised him. 'I asked him if he remembered the name of the colonel, and he did not. I did remember the name—Jackson. I asked him if he remembered anything happening on an occasion when his charger ran away, but he remembered nothing of it. He asked me,' says Mr. Gosford, 'if I remembered the grey pony his uncle used to drive. I said I did not remember. You spoke of the cats that had been mentioned to you by another person?—Yes, Bogle told me he talked much to him on the voyage, and he frequently mentioned my name, and remembered the incident of worrying Eberidge's cats, and also about the grey pony. Well, Bogle's statement made a great impression on my mind. He told us that he had had no conversation with the defendant about anything on the voyage home; but, if Mr. Gosford is right, Bogle cannot have told us the truth; and that while coming all the way from Sydney to Panama, several thousand miles, staying at Panama a month, going from Panama to New York, staying at New York, and coming from New York to England, Bogle and the defendant should not have conversed about Tichborne and former times, strikes me as being singularly improbable.' Then the witness is further asked, 'Do you remember anything being said about leave-taking before he went abroad?—Yes, and that was another thing that struck me. He said, "Do you remember coming over with me to Tichborne to take leave of my uncle and aunt?" I was very much struck with it, and cannot help being struck with it now, because, having carefully perused his letter, I know very well he did not go. I remember the letter to Gosford to this effect:—"My aunt has pressed me to go and see my uncle, but I won't go to Tichborne. She is going to take my cousin away to Wardour in order to avoid me, and under these circumstances, I won't go." He did not go, and never took leave of his dying uncle, and I have already cited it as a bad trait in Roger's character. He obstinately refused to go and say good-by to the uncle who had been so kind to him, though he well knew he would never see him again. Then Mr. Gosford says it was fully on his memory that he did not go, but he did not c

tradict the defendant, as he wished to hear all he had to say.

He further asked if Mr. Gosford remembered going to see him on board at Southampton. The witness contradicted him on that, and he added that the defendant's language was 'such as one would hear among workmen, using such expressions as "I heerd," and so on; the mode of expression was altogether that of a person of very low station.'

That is Mr. Gosford's account of what passed, and for the reasons I have pointed out, the evidence is of importance if you can place perfect reliance upon it. But we are bound to hear what the defendant had to say with reference to this conversation. He was cross-examined about it in anticipation of Mr. Gosford being called, and I shall read you what he says:—

'Did Mr. Gosford subsequently come down to Gravesend just as you were about to start for London and your luggage was packed?—Yes. Were Mr. and Mrs. Holmes there?—They were. Was there an interview between Mr. Holmes and Mr. Gosford?—I believe there was. Did Mr. Holmes bring you to the rooms where Mr. Gosford was?—He came and said Mr. Gosford was downstairs—had I any objection to go and see him? I said "Certainly not," and went down. You said you began the conversation?—No, don't say I said so. When I got to the room Mr. Gosford rose from his chair and held out his hand. (The Claimant was about to describe the interview.) The Solicitor-General.—Did you not put out your hand, and did not Mr. Gosford, after rising up, sit down again and say, "I am sorry the recognition is not yet on my side; but sit down, and probably our recollections may help us out?"—I most solemnly swear that was not so. Did you talk about Tichborne?—We did. Did you say you had been there, and Mr. Hopkins and Dr. Ross recognized you?—No; how could I? I had not spoken to them. Did Mr. Gosford ask you if you remembered your horse running away?—He did not, that I remember. Did he ask how it was you had not called on your relatives?—He did not. Why you did not call on the Seymour family?—No. Nor on Mrs. Towneley?—He did not mention her name. Why you had not been to see Lady Doughty?—He did not ask. Any conversation about Upton?—Yes, I think he mentioned Upton. About the island at Upton?—He never mentioned it. Did he say, "Why, can't you remember a particular thing that happened at the island?"—No, he did not; I don't think he spoke of the island at all. Did he speak of Slaughter?—Yes, I think so. Did he mention Cullington? Certainly not; but I had ascertained in London Mr. Slaughter was dead, and I should have gone direct to see Slaughter if he had been alive, but not knowing Mr. Cullington I did not go to him. You would have gone to Slaughter? Certainly I should. Your old friend, the attorney?—Yes; he was a friend and a gentleman. How did you ascertain that Mr. Slaughter was dead and Cullington was his successor? Rous told me that.

'Do you recollect Mr. Gosford asking if you remembered a horse you had left with him, and did you reply "No"?—When he spoke about the horse I remembered I said "Yes," and I said, "If I don't come back for seven years you are not to part with it"—those were my last words to Mr. Gosford.

Did he speak about the will?—He did, and I said, speaking of the will, "I cannot understand how any one can go and swear that a man was dead who was alive. Did he ask you if you could re-

member who made the will?—He did not. Did he press you and say, "Surely you remember who who made it?" and did you say, "Oh, I suppose Hopkins"?—No, I did not. He asked me several questions about the contents of the will, which I answered, and he asked me who proved it. I said, "Why, don't you know who proved it?" and he said he did not. I went next day to Doctors'-commons, and found, to my great surprise, that Gosford himself had proved it. Do you mean to swear that Gosford told you he did not know who proved your will?—I mean to say and swear that Gosford told me he did not know who had proved my death. But your will?—I mean by that my will. (Question repeated as to who made the will.) The Claimant swore that Hopkins's name was not mentioned in reference to the will. Do you recollect saying anything about Etheridge and the cat to Mr. Gosford?—Etheridge and the cat were not mentioned to Mr. Gosford. Did he ask you the names of your dogs?—I think he did not. Could you tell him?—Of course I could; but I have no recollection of the question being asked, or the whole conversation of three hours and a half. Did you give him a description of any of your dogs?—Yes; I gave him a description of a little white-hair bitch I had just before I went away, but not one of those you have mentioned, for I never thought of this one until you mentioning the dogs just brought it to my mind. Did you say "You remember the grey pony my uncle used to drive"?—No, I don't remember my uncle driving a grey pony. The grey pony I asked about was Alfred's—one Mr. Seymour gave him. I asked him what had become of it. Did you persist in saying there was a grey pony your uncle used to drive, and did he say there might have been, but he did not recollect it?—No. Did you say, "How is Percival"?—Who do you mean? No, certainly not. Did you say, "Well, he is quite well"?—No, I never knew any one of that name. I know Mr. Radcliffe's name is Percival, but I did not know it then.

'Do you recollect Canterbury being mentioned, and he asking you if you remembered being quartered in the county?—What county? Why, Kent. Did he say, "You remember Canterbury," and did you say "Yes," and did he reply, "Why, then, surely you know Canterbury is in Kent"?—Oh, no. Did he ask you where you were quartered in Ireland, and did you say, "Well, I was a good deal at Dublin"?—I dare say I did. Did he ask you "Whereabouts," and did you say, "The Curragh, Kildare"?—No. Did he press you about it without getting any other places but Dublin and the Curragh from you?—I have no recollection of Ireland being mentioned at all. Did he ask the name of your colonel?—No; I could have told him, of course, if he had. Did he ask you at all about your life in the army?—No, I think not. Did he ask you about a horse running away?—At Tichborne? No, in Ireland?—He never mentioned it. Did you say you could not recollect?—I did not. Did you speak of your mother several times, saying you were going to Paris to see her?—I believe so. And constantly speak of her as "mamma"?—I can't say; I used frequently to call her "mamma," sometimes "mother." Used you to call her "mamma" before leaving England?—Yes, in speaking to her, but not in writing. Did you speak of her to Mr. Gosford?—No doubt. Did you ever call her "mamma" to him?—I don't know. Did he ask you how you found funds for living abroad?—He did not. And did you say nothing, but did Mr.

Holmes reply, "When abroad Sir Roger Tichborne lived on the proceeds of his commission"?—No, I will take my oath that Mr. Holmes never spoke one word in that railway carriage from beginning to end, but sat there listening to us talking. Did you say that when travelling abroad you lived on the proceeds of your commission?—I don't understand what you are talking of. Question repeated.—I might have done so, for we were talking all the way up.

'Did you say "You recollect me going over to Tichborne to take leave of my uncle and aunt"? and did he say he did not?—No. And did you say, "Oh, you must recollect, surely, because that man from Winchester was there who used to come to clean the pictures"?—No, I did not. I don't remember any man at Winchester who used to come to clean the pictures. Did you write from London to Lady Tichborne next day on account of your interview with Mr. Gosford?—No, I don't remember doing so. I know there was one letter I wrote to my mother, which she never received. Did Gosford assent to the things you told him?—Undoubtedly; there was no dispute between us on any point. He was perfectly cognisant of all I said to him. Did Mr. Gosford say, "Do you remember who made your will"?—We spoke about the will. Did he ask you who made it?—No, he did not. Did he press you about it, and say, "Surely, you recollect who made your will"? and did you say "Oh, Mr. Hopkins, of course"?—No, I did not. Nothing of the sort?—No; he asked me several questions about the contents of the will, which I answered, and then I asked him who had proved my will, and he said he did not know. I said, "What, do you mean to tell me that you, as executor to the will, do not know who proved it"? and he said he did not; and next day, at Doctor's-commons I went with Mr. Holmes and another gentleman, and to my great surprise I found it was Mr. Gosford himself who had proved it. He said he did not know who proved the will?—Yes, those were his words. I will swear Mr. Hopkins's name was not mentioned in connexion with the will.'

Such is the defendant's account of the interview, and you see that the two versions are irreconcilable the one with the other. Either must be wrong. If Mr. Holmes had been put into the box he would have been able to say who spoke the truth in this conflict of evidence between the defendant and Mr. Gosford.

Gentlemen, some strong, some cruel observations have been made about Mr. Gosford, who certainly stands in a difficult and somewhat painful position. He was steward of the estate. Great trust was reposed in him. He had a loose way of keeping the accounts. He entered into speculation, or upon expenditure, in agricultural matters, which proved unfortunate. He did not keep separate accounts at the bank, but placed the rents received to his own account. His credit was suddenly stopped. He had previously been allowed to overdraw his account, and was unable to meet his engagements. It is a painful position to find himself placed in, not only because he owes the trustees a large sum of money which he cannot pay, but because the method of dealing with the money he received for his employers was irregular and improper. But when the learned counsel for the defendant asked you to look upon Mr. Gosford as a felon, and further suggested that he had given false evidence because his testimony had been brought upon the consideration of his not being prosecuted by those to whom

he was indebted, I cannot help feeling that you must have shared in the indignation—the just, the honest indignation—which I know was felt upon the Bench, and, I doubt not, was also, and naturally, felt by every right-minded person, at charges so utterly unworthy as coming from a gentleman of the bar.

Mr. Gosford may have been mistaken as to the identity of the defendant. He came away from that interview at Gravesend with the conviction that the defendant was not Roger Tichborne, and whether that conviction was right or not, it is for you, upon a review of the whole circumstances of the case, to form your judgment. But to suppose that he was influenced by considerations so base, so wicked, as the motives which have been suggested, and to suppose that he deliberately came here to swear falsely, is, I cannot help thinking, a very unjust and improper accusation to be brought against a man with reference to whom one thing is at least perfectly clear—namely, that it was his interest, if possible, to find Roger Tichborne in the person who had come home. Gosford was in difficulties. He owed money which he could not pay. He knew perfectly well that if ever he should be in a position to pay, the trustees under the settlements of the will would be bound to force him to pay. It would be their duty to do so. But if Roger Tichborne came back; the estates would be his, the trust would cease, and if there was any debt due for the estate it would be a debt due to him—due to his old and confidential friend, who had trusted him with every secret of his heart, and who had been upon terms of such unreserved intimacy and friendship with him. Gosford might under such circumstances naturally say, 'If I find Roger Tichborne and acknowledge him, I shall obtain an absolute and unconditional release from my liabilities, or at all events such facilities as will render the terms of payment easy.' In all probability that would have been the case, and he would have been restored to the honourable—I will not say the lucrative, position, he had held, and to employment, the receipts of which would be sufficient to maintain him. That that was the feeling of his poor wife is shown by the letter which was put in; the rest of the correspondence was unfortunately objected to—it was not strictly evidence—or we should have got to the bottom of this domestic confidence. Well, having heard from him after the first interview he had with the defendant, Mrs. Gosford writes in reply:—

'Tanylan, Monday.

'My dearest Hal,—I was, indeed, thankful to get your letter last night by George when he returned from meeting the evening train, which I sent him to as well as the morning one. Our post never came in until the middle of dinner, and then seeing no letter worried me much, dreading accidents with the wild weather and the stoppages in all directions. You have not yet told me a single thing induces me to believe this Sir Roger an impostor, but it is most trying not to be able to settle the point one way or the other. Why did you not go alone to Gravesend? I can quite fancy Sir Roger wishing for some time to keep quiet and prevent a lot of inquisitive people from bothering him, who would only haunt him out of curiosity. He has a great deal to inquire about, and from being so long completely out of the world of England feels at a loss in many ways. It is just like that Collington sticking his nose into everything. I cannot think so badly of poor old Bogle. You see you have

decided in your own mind that it can't be Sir Roger, and you look at everything under this belief—instead of balancing both sides of the question equally. Did you get the letter he said he posted for you at Cannon-street? The writing is decidedly like his in the note you sent me—the signature perfect. Do have a private interview, and don't decide that it is not him till you have done so.'

It is therefore quite clear in what direction her wishes pointed. Dr. Kenealy quite naturally made a point of what she said as to the handwriting. He asked her about it and she replied that her recollection of Roger's handwriting was that it was a scrawl like the defendant's, but that on a comparison of the two handwritings, she found that they were very different indeed. 'I was willing and anxious,' she said, 'to believe it was Sir Roger. My inclination was all one way at first.' For my part, I cannot doubt what the answer would have been if Mr. Gosford had said, 'You are my old friend Roger Tichborne. I am in a difficulty, and I trust to you to set me straight with the world.' Do you not think the defendant would gladly have taken Mr. Gosford by the hand and promised to replace him in his former position? My learned Brother Lush suggests to me—and I am obliged to him for the suggestion—the immense importance it would have been to the defendant if Mr. Gosford had ranged himself on his side. He was the intimate friend and confidant of Roger, the man to whom he had unreservedly unbosomed himself, who perhaps knew Roger Tichborne better than any one else on the face of the earth. What a tower of strength it would have been to the defendant to have had him on his side! Mr. Gosford, too, might well have known what would have been the result to himself if, instead of denouncing the Claimant as an impostor, he had identified him as the lost heir. That ends the interview with Gosford.

The defendant, having left Gravesend, writes to Lady Tichborne a letter dated the 9th of January from the International Hotel, London-bridge. It runs thus:—

'Dear and beloved Mama,—I am here, and am prevented by circumstances from coming to see you. Oh! do come over and see me at once, and I will not go out of the hotel until you come. I have been down to Tichborne, and had a look at the dear old place once more, and it made my heart bleed to look at the destruction that has been made there, but has my poor brother is dead we will not mention that subject again. Let the past be past, and no more about it. I have seen Mr. Gosford. He seems very much changed to what he used to be; he came down in the train from Gravesend last night. I had a long talk with him, and he seemed to deny everything I put him in mind of. He says he does not remember coming down in the coach from London with me to Tichborne. I had a long conversation with him about different things that nobody in the world could have told him but me. I never told him under what circumstances Moore came to leave me. You must remember, Mama, I write to him from almost every place. A Cullington and a lot more would insist on seeing me at Gravesend. When they came in, because I did not wish to see them until I had seen you they were very angry. Oh, do come at once to the hotel, Mama, and I will not go out until you come. Everything will be explained when you come; it is dangerous for me to go out, as some of the bills I drew in Sydney all due, and I think they intend to arrest me if I

attempt to leave England. So do come at once, Mama.

'I did not receive an answer to the telegrams sent from New York. Hoping I will not have to wait long before seeing you, I remain your ever affectionate son,
'R. O. TICHBORNE.'

Now, there are 22 printed lines in that letter, and it contains nine small 'fs,' seven mis-spellings, eight mistakes in grammar, and five names of places with small initial letters. The letter presses Lady Tichborne to come over to England. Why it should have been written on the 9th and the defendant have started on the 10th I do not know. Lady Tichborne, if she had heard from Mr. Bowker of the defendant's visit to Alresford, might have thought it odd that if he were able to go there he had not come to Paris, and the defendant speaks of the visit as arising from a sort of yearning to see the old place. Lady Tichborne was anxiously expecting him in Paris, and on the 10th he starts. Now, he was recognised by Lady Tichborne on his arrival at an interview to which I shall call your attention presently.

But, before we come to that, let us consider the state of mind in which Lady Tichborne was, because a great deal has of course been made of her acknowledgment of the defendant as her long-lost son. One cannot quarrel with the learned counsel for the defendant for making that the head and front of his battle. The recognition by his mother would, of course, outweigh a host of witnesses who failed to recognise the defendant. If you want to express what you think of the change which has taken place in a person's appearance in the strongest possible form you would resort to the popular saying, 'He is so changed his own mother would not know him.' You cannot estimate too highly the authority which a mother's decision on such a matter ought to have with you. But, as I said the other day, there is no rule so universal as not to admit of some exception, and the question is whether we do not find an exception here.

Now, while I admit to the full the weight and the authority which a mother's recognition of her son ought to have, let me say that I am not to be misled by idle declamation about a mother's instinct. That is not the feeling which the lower animals have for their young or human mothers for their children. Instinct means something which is independent of the judgment; some impulse which is stronger than the judgment or the will; something which sways the mind irresistibly. If a child was separated from its mother at its birth or shortly afterwards, do you think that if 20 years afterwards she chanced to see the young man or the young woman in a crowd she would be moved by an irresistible impulse to throw her arms round his or her neck with all the feelings of a mother? If a child were brought up from early youth by an uncle or grandfather in another country for years, would not that relative be better able to speak as to identity than the mother could be? It is not in consequence of any natural impulse, independent of judgment and knowledge, that a mother would be better able to recognize her child than anybody else. It is from the habit of watching the particular individual; from being more familiarized with its daily life, with everything that pertains to personal identity—the form, the features, the gestures—than anybody else can be that a father or mother is best able to speak as to the identity of a child. But if we find that in a particular instance there has been some such strange bias as that we cannot rely on the judgment of the

parent, or that there has been a long separation, then we cannot allow the conviction that every other fact and circumstance would naturally tend to engender in our minds to be overruled and overwhelmed by the simple fact of a mother having said that a particular individual was the able number of years. We ought to listen with all son from whom she had been parted for a considerable respect to the opinion of the mother; we ought to take it as a circumstance calculated to weigh strongly in the one scale, but we must not leave out of sight the circumstances that weigh in the other. It is a most important circumstance in the case, but it is not a conclusive one. If it were conclusive, what was the need for this protractive inquiry?

Now, were there not several things which ought to have made Lady Tichborne hesitate before she accepted the defendant as her son, even if the defendant had had the outward and visible appearance of the son she had lost? There were circumstances which ought to have made her pause and hesitate, and certainly not to have decided before she asked in the words of the Patriarch, 'Are thou my very son?' Long before she had seen him, and with all these startling difficulties standing in the way, she declared that he was her son, and accepted him as such. She knew the defendant said he had had St. Vitus's dance, and that her son Roger never had. She knew that he had said he was never an officer in the Carbineers, but that he had enlisted as a private in a regiment which had no existence. She knew he had said he knew his grandfather, whom, she said, Roger could never have known. These were circumstances which ought to have made her pause. But that is not all. When asked in Australia to give his proof of his identity, he mentions the brown mark on his side, of which she had never heard, and which she had never seen, and he referred to the Brighton card case as a fact within her knowledge. Now, had the Brighton card case any existence? If it had not, you cannot have a more striking proof of Lady Tichborne's determination not to be driven by any obstacle, be it what it might, from the point she so anxiously sought to establish. Is there any reality in it, or is it a myth from beginning to end? Knowing that the defendant had given it as a proof of his identity, Mr. Giffard, his counsel, naturally examined him about it, and the account the defendant gave about it was that he was cheated at cards of 1,500*l.*, of which he paid 500*l.*, by two men named Broome, whom he had not seen before, and a man named Robins; that another person, named Eccleston, of St. Martin's-lane, was present at the time, that it occurred at the Bedford Hotel, Brighton, and that the fact was generally known in his circle.

Thus far there is no mention of the Brighton races. The affair, he said, was hushed up so far as the public was concerned, but was known in the family. On cross-examination he fixes the time as about September or October, 1852, or it might, he said, be August, but that it was during his three months' leave, which we know did not begin until the 28th of October. He was asked had he ever lost 1,500*l.* on any other occasion, and he said he had within the last eight or ten months, at his Club, at play, but not at cards, except on the occasion he spoke of at Brighton. He was then pressed to state where he had lost the money, and he said it was at the Bedford Hotel, Brighton, in a sitting-room into which one

of the Broomes invited him. He said he knew both the Broomes.

Well, some interval passed between the examination-in-chief and the cross-examination, and there are some discrepancies in his statements. In the examination-in-chief he said the men were two strangers whom he had never known before; but in the cross-examination he says he knew them both. Being further asked which of the Broomes it was who invited him into the sitting-room, he says he thinks it was Harry. And here Mr. Serjeant Ballantine interposed, fearing, I suppose, that the defendant would contradict himself, and says 'he believes it to be Harry.' Then the defendant says he believes Harry was staying at the Bedford; he did not know whether Johnny was staying there or not. He did not think Eccleston or Robbins was staying there. He thinks he was at Brighton only three days altogether. He could not say how much of those three days he spent with Johnny and Harry Broome. He met them each day. He thought that Eccleston and Robbins did not join them until the third day. He met the Broomes after breakfast, and walked about with them. He went with them to the races—the autumn races. It must be remarked that there are no races at Brighton except once a year. The defendant goes on to say that this was not his first acquaintance with the Broomes. He knew Harry before, but he did not think he had ever seen Johnny until then. He says, 'I had been in Harry's house; I had never been in Johnny's house. I lost 1,500*l.*; I had something like 40*l.* about me. I went to Brighton from Canterbury. I think I was a night in London, having gone from Canterbury to London, and then on to Brighton.' He says there was no public notice taken of the matter, and nothing about it in the newspapers. It never became what lawyers call 'a case in court.' He says, 'I swear upon my solemn oath I know nothing about a well-known card case at Brighton for which two men, Sladen and James, were tried.' It appears, then, gentlemen, that this card case in which the defendant says he was concerned occurred at the Brighton races of 1852, that he went over to Brighton from Canterbury, that he lost 1,500*l.* to the Broomes, one of whom he had known before, that he had been in Harry Broome's house, but never in the house of Johnny—an important fact when you come to deal with the evidence with respect to this Brighton card case. 1852 was the only year in which Roger Tichborne could possibly have gone from Canterbury to the Brighton races.

Now, in 1851, there was a card-swindling transaction, which had acquired not a little notoriety. These two Broomes were notorious pugilists, and John was an accomplished villain. This John, with two persons named James and Sladen, got a person named Hamp, the son of a clergyman, to play with them, and they won 1,500*l.* from him. The thing became known, and the three men—John Broome, James, and Sladen—were taken up and committed, but were let out on bail to come up and take their trial at the next Assizes at Lewes, which would be in the spring of 1852. When the time came, Mr. Hamp failed to appear, so that no bill was presented to the grand jury. The consequence was that Mr. Hamp's recognizances were estreated, and these recognizances being considerable, he thought better about the matter, and made, I suppose, application to

Judge in chambers to have the recognisances enlarged upon condition of his coming forward at the next Assizes to prefer a bill of indictment. At the next Assizes Sladen and James surrendered, but John Broome forfeited his recognisances, and absconded. Warrants were immediately issued against him, but he was nowhere to be found. James and Sladen were tried before the late Lord Chief Justice Jervis, and convicted in the last week of July, 1852. The Brighton races were held upon the 4th, 5th, and 6th of August in that year, 1852.

Now, could Roger have gone to those races, did he go, and if so, is it possible under such circumstances he could have been the victim of a card-swindling transaction in which John Broome took part? We have a letter from Roger Tichborne to Mr. Vincent Gosford on the 3rd of August in that year, in which he tells him that he thinks he might get leave if he applied for it, but he won't apply because he knows that his father is at Tichborne, and he would want him to go there if he got leave, and he does not wish to explain to his father why he did not like to go to Tichborne. Now, one thing is perfectly clear, that he could at that time hardly have gone from Canterbury to Brighton and spent three days there, coming up to London from Canterbury, and staying there for a night. He wrote, as I have told you, on the 3rd to Gosford, and we find him on the 7th writing to his mother. Now, if he lost 1,500*l.* at Brighton, and was obliged, according to his own account, to have recourse to his mother's assistance for the means of paying it, we should expect to find some reference to the subject in this letter. But there is not the slightest intimation in the world that he lost a shilling there. What he writes about is this. His mother having conceived the wild notion of coming to Canterbury to stay near him, he writes earnestly to dissuade her from it, saying that, as his father was in England, if she were to come to Canterbury, and his father were staying in one place, and she in another, it would give rise to remark. Now, if he had lost the money, and, according to the defendant's story, wanted her assistance, would he have written to her not only not referring to it at all, but in the strongest possible terms seeking to dissuade her from coming to this country? It strikes me as highly improbable that between the letter to Gosford on the 3rd and this letter to his mother Roger could have been at Brighton and lost this money. But there is a still stronger difficulty. John Broome had absconded, and the Brighton police officers had warrants for his apprehension; but according to the defendant's story this John Broome, who had forfeited his recognisances and absconded, was every day walking about the racecourse, where the police officers rust of necessity have seen him. Can you, as rational men, think it is in the slightest degree probable that John Broome would, under such circumstances, have been walking about the Brighton racecourse, and would have been taking part in exactly the same description of criminal offence for which his two companions had just been tried at Lewes, and for which he would have been tried, had he not absconded?

But there is a still further difficulty in the defendant's story. The money, he says, was found for him by his mother. But his mother had no funds under her control, and no means of raising the money. The money which she had for her own separate use amounted to only 100*l.* a year; but 100*l.* a year will not pay 500*l.*, at least not

for five years. She could not have raised the money without the concurrence of her husband. Her fortune not being settled upon her for her separate use she could not touch a farthing of it without her husband's consent. But with Roger Tichborne the case was very different. He was heir to 20,000*l.* a year, and if he went to money-lenders he could as easily have borrowed 500*l.* as I could borrow 5*l.* There was, therefore, no reason whatever why he should have required his mother's assistance.

Now, gentlemen, looking at all these circumstances, what conclusion do you arrive at? Is this story about the Brighton card case a reality or a delusion? Is it an entire invention? If the conclusion you arrive at is this—that this Brighton card case is merely an amusing story; that the defendant, having heard of it as one of those things which had made a great sensation at the time, adapted it to his own particular case; if this be your conviction, what are you to think of the mother, who, instead of saying, 'It is quite ridiculous to talk of the Brighton card case—it didn't happen to Roger at all,' says, 'Oh! well, we won't say anything at all about it?' But if she did say, 'It never did happen, and never could have happened,' there would have been an end of the defendant's case, inasmuch as he founded one of the proofs of his identity on this transaction.

But then there are two witnesses called on the part of the defendant. One of them, Mr. J. Taylor, says that he had a bet with John Broome in 1849; that he called at his place, the Rising Sun, in Air-street; that he was taken into a back parlour where there were three or four gentlemen drinking champagne; that one of them, not stout, but fair-sized, was pointed out to him as Mr. Tichborne; that he saw the same party two or three days after in the same parlour drinking champagne; and he fixes the date by saying it was about the time of the Metropolitan Spring Meeting. It might have been April, but he thinks it was May. Well, at that time Roger Tichborne was at Tichborne studying for his examination, and when Lady Tichborne writes to him in the month of August she refers to his having been eight months there. Of course, it is possible that he might have run up to London for two or three days and gone to Johnny Broome's. But then you are asked to suppose that he was acquainted with John Broome and had some reason for being there; but the defendant distinctly stated that he never was at John Broome's house, and what then becomes of this story? Then there is another witness, Mr. J. Burnell, who says that he was standing within 4ft. or 5ft. of the bar in Johnny Broome's house when a young gentleman drove up, and, coming in, told Johnny Broome that if he didn't give back the money he had swindled him out of, he would take proceedings against him. Johnny replied that he would see the others who were with him at the time, and that he would put it all right. He called the young gentleman Captain Tichborne. This was in the autumn of 1850. The young man was, according to the witness, very dark, about 20 or 21 years old, about 5ft. 9in. in height, and with broadish shoulders. His eyebrows were dark and rather heavy. He had got a very peculiar walk, his right knee seeming to bend inwards.

But we know very well that at this time Roger Tichborne was at Cahir, and he could hardly have been called 'Captain,' for he was not even lieutenant until some time after. 'But,' says the learned counsel for the defendant, 'I don't care

about dates. I have a sovereign contempt for pates. If it didn't happen in 1852, then it happened in 1851; and if it didn't happen in 1851, it happened in 1850; and if not in 1850, it happened in 1849. There never was anything so magnanimous as this contempt of circumstances, time, and place. It is the old story of the Wolf and the Lamb. 'You reviled me last year, you wicked lamb,' said the wolf. 'That could not be,' says the lamb, 'for I was not born then.' 'Then it must have been your father,' retorted the wolf. 'Oh, no,' said the lamb, 'for my father was at that time dead. He was killed by the butcher.' 'Well, then,' said the wolf, 'if it was not then, it must have been at some other time.' And so says the learned counsel for the defendant. We know that the Brighton races, in 1851, were on the 6th, 7th, and 8th of August. Roger came to town in the month of July on leave to see the Exhibition, and he got back to Clonmel, where he was then stationed, on the 13th of July, and it is not likely that he obtained leave immediately again. So he certainly was not at the Brighton races that year. So again, if we go back to 1850, the races were on the 7th, 8th, and 9th of August, and we have got his letters from Cahir, which show that he was not on leave at that time. But, further, the defendant says he went to Brighton from Canterbury. What, then, is your opinion of this Brighton card case, which affects not only the truth of the defendant's statement, but also the opinion you will form of Lady Tichborne's judgment in deciding the question whether the man who presented himself as her son was her son at all? So much for the Brighton card case as an element in this history. If you consider there is no reality in it, but that the defendant for some reason or other adopted the story as his own, it not only militates against him, but must shake all confidence in Lady Tichborne's recognition.

But besides the difficulties connected with the brown mark and the Brighton card case, which certainly might have startled Lady Tichborne, she had received advice which ought still further to have caused her to hesitate before making up her mind that this person was her son. She was in the hands, as regards legal business, of a man in whom she might place implicit trust, Mr. Bowker, one of those sound-judging, conscientious members of the profession, in whose keeping the interests and honour of families and clients are always safe. When she first heard about the defendant, she placed herself in his hands. She tells him of the letters she had received from Mr. Cubitt, and that she has reason to believe that her long lost son has been found. She tells him she had written to Cubitt that she was willing to send him 40*l*., but would not send more until she knew more of the business. She says:—

'I have asked Mr. Cullington to forward 40*l*. to Sydney, but he has no correspondent at Sydney. He said I must address myself in London. Would you be so kind as to forward them to Mr. Cubitt, News Agency, 11, Bridge-street, Sydney, Australia? I would send you this last letter, but I am afraid to send it to you by post, and will show it to you when I go to London in three weeks hence, or a month certainly. When you read Mr. C.'s letter you would not doubt that my son Sir Roger is still in existence, and in my present affliction it would be a great consolation if my eldest son came back.'

Mr. Bowker, in reply, writes thus on the 3rd of March:—

'Dear Lady Tichborne,—I have considered the

statement respecting your eldest son. I will, of course, remit the 40*l*. to an agent in Sydney, but before doing so I should very much like to see Mr. Cubitt's letters. If you were to send them to me in a registered letter, in the same way as you forwarded the check, they will no doubt come safe. I cannot help thinking it is a plan to get money. Still, I would not advise you to refrain from sending the 40*l*., if it would give you any satisfaction. There is not, as I understand, any possible reason or motive for your son concealing himself if he be alive, while there is every inducement for him to make himself known—viz., a very handsome fortune in possession, and a very large addition to it in a few years. Under these circumstances, concealment seems incredible. Still, as I have said, I do not dissuade you from remitting the 40*l*., although I consider it will be lost. We must hope the little child yet unborn may prove to be a son, and that it may live to prove a blessing to an ancient and honourable family.'

Lady Tichborne writes to him again and encloses one of Cubitt's letters. This is her letter:—
13 March, 1866.

'My dear Mr. Bowker,—I received your second kind letter this morning, and I hasten to answer it to say that I am much obliged to you for your first letter, and I would have answered it immediately had I not been waiting for this letter which I now send to you. I was expecting it, and I thought it was better to wait to be able to forward it to you at once; the other letters are all summed up in that one. You already know, I think, that Roger belongs to a regiment of Militia of that colony. It appears that he has lived on his pay. When I know how little he cared for money, I am not surprised that he lived so long away from his own inheritance, especially when I consider that he had never limited the time of his absence, and never mentioned anything of the probability of his return.'

Now, judging from his correspondence, I should say that no man cared more for money. He was extremely careful in his expenditure, he did not run into debt, and he was always considering about this fund and that fund, this money and that money. We are quite as competent to form a judgment on that matter as Lady Tichborne. Then the letter proceeds thus:—

'As for what that letter mentions of a nervous affection, Roger never had any when with us; he was nearly two years in the Carbineers, and very much liked by his colonel. I think it is possible I may have another letter on the 1st of next month. You see that they will not get on without money, and I cannot bear the idea of losing, perhaps, the chance of seeing my dearly beloved son again for the sake of a little money. I, therefore, will thank you to have the kindness to advance 40*l*., and to forward it to Sydney. I told Mr. Cubitt in my last letter to him that I would not let him have any more till I had some proof more positive that he had found my dear son. Still, I think it is better to venture, and the sooner you send the 40*l*. the better it will be. I also think that the money for his ransom ought to be paid out of the estates when he has got them back to him; but you will, of course, see about it. I, however, have a presentiment that we are going to see my dear son again. I think it is better to wait to mention it till after Lady Tichborne's confinement, as perhaps it might do her harm; but, however, I always heard my beloved Alfred speak on that subject in a very reasonable and honest

manner, and I have no doubt that it will not meet with any difficulty on her side.—I remain, very sincerely, yours,

H. F. TICHBORNE.

In answer to that Mr. Bowker wrote to Lady Tichborne on the 26th of March, the following letter:—

'Dear Lady Tichborne,—I duly received your letter of the 16th inst., and was making inquiries with the intention of remitting the 40% to some agent at Sydney, with a discretionary power to pay it over to Mr. Cubitt or not, according to circumstances. I have not, however, done so, in consequence of the two extraordinary letters enclosed. With respect to that which purports to come from your long-lost son, the first thing which strikes me is the manner of the contents, which is totally unlike the letter of an educated gentleman. The handwriting is altogether different from the late Sir Alfred's. The jump from Cubitt's modest request of a remittance of 40% to the large sum of 400% will not escape your observation. If the writer were really your son, why did he not relate to you the story of the escape from shipwreck, his subsequent wanderings, and the reason of his concealment for so many years, with every earthly inducement to make himself known?

'There is not a line in the letter which is not open to observation. As regards the other letter from Mr. Gibbes, I happen to know the old firm of Faulkner and Gregory, to whom the writer refers, very well. I have shown it to one of the partners of the present firm; and I send also a copy of a letter from him. I am afraid the whole business is an impudent attempt at extortion. If you have any doubt on the subject I will compare the signature to the letter with your son's original signature to his will.'

On the 27th of March, Mr. Bowker received this letter in reply from Lady Tichborne:—

'My dear Mr. Bowker,—I have just received your letter, and I hasten to answer it. I think you did right about the money. Still, I cannot say that this business is only meant to gain money; if you consider the position he puts himself in should he assume a name that does not belong to him, and the character of honesty that he bears would, it seems, defend him from that accusation. However, I think it right not to send any money, as, if he is really Sir Roger he will find people to advance him the 400% he requires.'

She seems to have thought the bankers and moneyed people out there would not require anything but his bare assertion, but would at once advance the money. That shows a very indifferent notion of the hold which bankers have of money in Australia, which is quite as hard as that of bankers here. They do not advance money on a person's bare assertion. It was only after the representations of Cubitt and Gibbes, after the defendant had been recognised by Bogle, and after Mr. Turville had interposed, that the bankers made up their mind to advance the money. Then the letter goes on, and we get a touch of womanly feeling:—

'As he has lived among savages and soldiers these last 12 years, it is possible he should have forgotten English, or at least that he should not write as correctly as one could wish. I did not wish Lady Tichborne to here of that business till after her confinement. I hope, if your brother has mentioned it to her, that it will not do her any harm. I had a letter from her last night, and she fortunately says she is going on very well. One thing, however, that seems like Roger is to

have sent his letter to Tichborne, as he only knows Tichborne, and does not know Mr. Cullington, where the other letters were sent. Of course, I cannot say anything certain, only that doubts are not a certainty. Times will let us know more about it.—I remain, my dear Mr. Bowker, yours truly,

H. F. TICHBORNE.

At that time, says Mr. Bowker, 'she was under the impression that if she recognized her son he would take possession of his estates as a matter of course. I told her that was not so, and that the identity of the Claimant would have to be distinctly proved, but that there would be no great difficulty about that, as there was so very large a family, and so many connexions to whom Roger was known. She had a photograph, which she showed me; it was badly executed; it was a fat, stout man; but she said she recognised it as that of her son by the lower part of the face and the chin, and also by the smallness of the hands. The figure was one standing, and I have never seen it since. She said she was prepared to swear it was her son in any court of justice whatever. I was rather startled, and said, 'What! my dear lady, swear to a man before you've seen him!' However, she persisted in her statement. I said, 'Of course, if you recognize him, it will have great weight with me, and I will, if I am satisfied myself as to his identity, be happy to take all the necessary proceedings on his behalf.' He said he should like to ask him a few questions. She said he would never submit to it. He replied that, whether he liked it or not he would be compelled to answer a great many questions before he got the estates. She was about going to Paris, and she tells Mr. Bowker that her son would be far safer there than in London.

Then we have Mr. Danby Seymour remonstrating with her, when she tells him she is prepared to swear that the defendant is her son without having seen him. He says, 'As I considered her opinions mere delusions I did not combat them. I only said, 'Don't send him any more money than is absolutely necessary to bring him home. Mr. Seymour also told her that the expression about 'the blessed Maria,' was very unlike anything that Roger would have used. To that she replied 'that Roger had lived for a long time among the Irish, and that is the way the Irish people speak.' I don't know whether that is the case or not, but one thing is certain, that though Roger lived a long time among the Irish, and we have a number of his letters from different places in Ireland, he never made any reference to the 'blessed Maria.' Mr. Danby Seymour also says that he never heard of Roger Richborne being victimized in any card case or gambling transaction.

The testimony of Mr. Alfred Seymour is to the same effect. He was in Paris in December, 1866, and Lady Tichborne tells him she had received a letter and photograph of the defendant, and promised to show them to him, but she always put off doing so. And when the defendant was in London, Mr. Alfred Seymour says he urged her very frequently to let him see him, but she never would. So he never saw the defendant until the end of July.

Well, gentlemen, here are two men of the world, men of honour and character, upon whom you might expect a sister to throw herself for advice and assistance in a matter of this kind—where a man is coming forward to assert that he is the heir to the Tichborne name and estates. In the midst of the difficulties which I have

painted out in the correspondence from Australia, you would have expected that she would have leant on them for help in so critical a conjuncture. Why is it that she does not do so? Was it that she was afraid of the troublesome monitors who would come between her and the son she hoped to find, and cast a dark shadow over what was to her the bright prospect of seeing that long-lost son again. The one idea—the one thought—that had taken possession of her mind from the time she had heard the ship had gone down, was that her son would one day be restored to her. She had clung to that hope with a sort of fond desperation. When other people smiled and sneered at a hope so visionary and absurd, she clung to it with desperate tenacity, as a man would cling to a plank in a shipwreck as his only hope of reaching the shore. Now there was a prospect of that long-cherished hope being realised. There came an account from Australia that her son was found, and was coming back to be the staff and support of her declining years. She listened with greedy eagerness to this story, and almost with a conviction of its truth, though the circumstances were such as ought to have engendered suspicion in her mind. And now with this bright prospect before her, when people came and said 'You must not believe all this—it is a delusion, and your hope if you cherish it for a while must in the end terminate in disappointment'—when people spoke thus she looked upon them as coming between her and the realisation of that happiness which for years had been her fond and constant hope. And like anybody whose conduct depends upon his own will and determination, not upon conviction founded upon reason and reflection, she would not admit anything which could tend to detract from the confident belief she had that the Claimant was her son, or turn her eyes from any light that might be shed on the subject of the inquiry. She believed as people believe that which they desire to believe, shutting out from consideration everything which could tend to produce a different result.

I cannot help thinking that in this she might be right after all. That you are to judge of from the whole case. But that she entered upon that inquiry with a preconceived notion and bias, and looked at the thing only in one light, I think is clear. Far be it from me to say that, if she had an honest suspicion or disbelief of the identity of the Claimant, she would have acted dishonestly for the sake of bringing about the success of his claim. I do not say it for a moment, nor do I believe it. No such position was taken on the part of the prosecution. That she was insane, or insane to the extent of having a monomaniacal delusion on the subject of her son, I do not believe. But she had come to have what the old Abbé called 'a fixed idea'—une tête malade; and although I think her opinion is entitled on this point to the most careful and respectful consideration, I do say she was placed in circumstances in which her judgment may be as much open to criticism as the judgment of anybody else. She had staked the happiness of her life upon this one hope. But it was more than that. It was not that there was merely the yearning of maternal love; there was more—there was the vanity of the woman mixed up with the hope of seeing her son. She had been looked upon as half crazy by people who could not take the same view. She had been reproved by her husband for talking about her son as if he were still alive. She had been laughed at

by other people for entertaining a belief so utterly irrational under all the circumstances of the case. But now, if he came back, there would be not only the mother's joy at his restoration to her fond maternal embrace, but there would be the triumph she would have when she could say, 'Here is the crazy woman you all talked about. She was right after all, and you were wrong. Here he is, and with triumphant exaltation I take him by the hand and bring him back as heir to the titles and estates.' But imagine her feelings if, after entertaining this hope, it turned out after all to be nothing more than a wicked and iniquitous imposture. The disappointment and despair would be as deep as the joy of the mother if it turned out to be her long-lost son. Therefore Lady Tichborne was not in a position in which, unless other circumstances go to show that her judgment was right, that judgment ought to be received as above question. It ought, I admit, to be received with respect as the opinion of a mother, but not without the vigilant criticism which you ought to apply to the judgment of anybody else who would say that the defendant was the real Roger Tichborne. You know all the circumstances of his story from beginning to end, whereas many of those who came forward to support the case of the defendant knew nothing of the difficulties by which it is surrounded.

Well, when the arrival of the defendant was expected, Lady Tichborne writes to Mr. Bowker to say that she had heard that her son was coming by the Cella, and asking him to make inquiries on the subject. On the 27th of December he replies that he had ascertained from the captain that her son had gone to an hotel, and that he had left a note for him there. That note, having been sent to Forde's Hotel, probably reached the defendant, but he takes no notice of it. Mr. Bowker calls at the hotel on the 29th, and sees young Butts, the defendant's secretary, and was told by him that Sir Roger Tichborne was going to Paris. But that was untrue, for at that time he certainly had no idea of going to Paris. Mr. Bowker writes to Lady Tichborne that he had not seen her son, but that he was informed he had gone over to Paris, and that he would go over himself. He accordingly leaves by the mail train on the 30th of December, and arrives in Paris on the 31st, and there he waits for three days, during which time Roger Tichborne was most anxiously expected, but he did not come, nor were there any tidings of him. Mr. Bowker, in the meantime was introduced to the Abbé Salis, whom Lady Tichborne asked to swear to her son. To this the Abbé replied that he would do so if he recognised him, but not otherwise. On the 3rd of January Mr. Bowker left Paris, and Lady Tichborne arranged with him that he should return when her son arrived. On his arrival in London, Mr. Bowker writes to Lady Tichborne that her son and Bogle had gone down to Alresford, and that Bogle denied he was there. Mr. Bowker writes on the 8th that Mr. Gosford, hearing that the defendant was at Gravesend, went down with some other gentlemen to see him, and the defendant met him on the stair, but would not speak to him, but went and shut himself up in his room, and he added that Mr. Gosford did not believe the man to be her son. Lady Tichborne was exceedingly angry with Mr. Gosford.

Mr. Bowker went over to Paris at the instance of Lady Tichborne, and while conversing with her two letters were brought in, one from the defendant announcing his intended arrival that day.

When she had got those letters she turned to Mr. Bowker, who had gone to Paris by her express invitation, and said to him that her son was coming with his own solicitors, and that she would not like to introduce him to her son. Mr. Bowker understood her, and said, 'I suppose, Lady Tichborne, you do not further require my services?' and she said that was so. Thus you see, gentlemen, the solicitor whom she had herself employed, and whose assistance would have been most valuable to her, she discarded at the very moment when his services would have been most useful. I cannot help thinking that she was glad to get rid of anybody who might exercise an independent judgment in the matter, and stand between her and her most cherished hopes.

When the defendant makes up his mind somewhat tardily to go over to Paris to see his mother he requests the company of Mr. Leet, a friend whom he had casually picked up, and of Mr. Holmes, his attorney. They arrived in the Rue St. Honoré late in the evening. The defendant does not go to see his mother that night because he was tired with the fatigue of the journey. One would naturally suppose, however, that the first thing he would do in the morning would be to hasten to the anxious mother who was longing to behold her son. She sends her servant, a man named Coyne, to the hotel to fetch her son, and there he sees Mr. Leet, who calls out Mr. Holmes. Then Mr. Holmes goes into the defendant's room, and brings out word that the defendant was not well, that he had been sea-sick, and had not yet recovered. Coyne takes back the message, and he shall tell you in his own words what ensued. He was asked:—

'Do you see the defendant?—Yes. Do you remember his coming over to Paris?—Yes. Do you remember being sent to see him?—Yes. Who sent you?—Lady Tichborne. She told me he and Mr. Holmes and Mr. Leet had arrived there the previous night, and that I was to go and fetch them. I went to the hotel, and the French porter pointed out to me where they were, and I knocked and Mr. Leet was the first man I saw there. Did you deliver Lady Tichborne's message?—Yes; I said I was come from the Dowager Lady Tichborne for Sir Roger. He asked me if I'd know him if I saw him. I said no, I never saw him before. He said he'd go and see Mr. Holmes, and he went; and as he opened the door Mr. Holmes was just getting out of bed. Mr. Holmes told me they all said in England he was not the right man, and he had a hard job to get him away, as he was watched by detectives. He then went into the room where the Claimant slept and came out with the answer that he was sea-sick and was not well, and I went back with the message to Lady Tichborne, who told me to go back and demand to see him. I did so, and Mr. Holmes went into the bedroom again, and the Claimant came out into the dining-room with his head down and sat down; and he "teared" (*sic*) a little, and I said I was glad he had come home, and all that sort of thing, and he thanked me, and told me to go back and tell his mamma he was not able to go and see her.

'I went back to Lady Tichborne, who told me to take a cab and bring him, or to ask them to come to see her, and to get a decided answer. I went back and found all three of them eating *their breakfast*, and when they finished the Claimant went into the dining-room, and Holmes and Leet came out and locked the Claimant in-side, and then Holmes and Leet went with me to

the Place de la Madeleine, where Lady Tichborne was, and I showed them in. They closed the parlour door slowly behind them, but I was close to the door, and I heard Lady Tichborne say, "Do you think he will get the property?" and one of them answered, "As sure as you are sitting in that chair." They went away, and in the afternoon I went with her to the hotel, and showed her up to the room where the Claimant was. I went in myself, and saw the Claimant. Lady Tichborne walked in first, and I and Mr. Holmes walked in afterwards. He was lying on the bed with his clothes on. He was lying with his face towards the wall. She stood over him and kissed him, and he stopped so, with his face to the wall. She said, "He looks like his father, and his ears look like his uncle's." As soon as she said that she turned round and told me to take his clothes off, as he was nearly stifled. I managed to turn him over and took his coat off. He told me to put some coals on the fire. Mr. Holmes said, "You witness that; you hear how she has identified him?" and I said, "So do you." Did he say anything?—No. Did he remain lying on the bed?—Yes.

Coyne's Irish brogue was so rich and his manner was so odd that it was difficult to preserve one's gravity, especially as to all this was added the exceedingly ludicrous character of the scene he described. It is exceedingly unfortunate that at this critical juncture, as on other important occasions, the defendant is ill just when it is most desirable that he should be well. At all events, this is a strange meeting of a mother and her son under the peculiar circumstances in which they were placed. You would suppose that, if there remained in him one spark of filial feeling or one particle of energy or power to move, the presence of the mother he had not seen for so many years would have given him strength sufficient to enable him to rise and throw himself into her arms. On the contrary, we know that he breakfasted, went to lie down on his bed with his face turned to the wall, making no sign of emotion when his mother came to embrace him, and saying nothing at all. The whole thing sounds like one of the drollest stories of Smollett or Paul de Kock. A son meets a mother after so many years' absence and goes to bed with his clothes on; and the only observation made by the mother is, 'Ah! his face is like his father's and his ears are like his uncle's.' It was certainly a strange sort of meeting, and the more so as it was all in the presence of the Irish servant, of Mr. Holmes, and of Mr. Leet. It is only right that you should have also placed before you the defendant's account of the interview. He is asked:—

'Did you see your mother the same night you arrived or not?—Not the same night? How came that to pass?—It was late. When did you see her?—The next morning. Did you go to see her or did she go to see you?—She came to see me. How was that?—I was unwell. About what time of the day was it that she saw you?—I have no idea what hour. What was the matter with you? Were you very unwell, or what?—I was very unwell indeed. Just tell me, so far as you can remember, what passed when your mother came; did she recognise you at once or not? The Lord Chief Justice.—Describe the scene as nearly as you can, if you will be kind enough, clearly, distinctly, and slowly.—I do not know that I am really able to do that, my lord. Do you mean you do not know that you are able to describe what occurred?—Not when my mother first en-

tered the room. Tell us in your own way your account of what occurred at that interview.—My mother was standing alongside the bed when I was laying on it. I was laying on the bed and my mother was standing alongside of it. Mr. Giffard.—As nearly as you remember tell us what happened.—I am not aware that anything happened. I was attended by medical men. Well, did you speak to her, or did she speak to you?—I could not say who spoke first. We did speak. We conversed for a long while. I remember that. Can you tell me whether she recognized you at once or after a time, or what? I cannot say. I do not wish to answer a question that I do not know of. There were others in the room who will be able to give a better account than me. Who else was in the room?—Mr. Holmes was in the room, and Mr. Leet. I am not sure if Dr. Shrimpton was there or not. I know that Sir Joseph Oliffe was sent for afterwards, and I believe Dr. Shrimpton was present at the time. Were either you or your mother affected at the interview?—Yes; I believe we were both. Were you engaged in conversation with her for some time?—Yes. Did she in words express a doubt about your being her son?—Oh, not the slightest. How long did that interview last?—Till late in the evening, I think. Were the gentlemen you mention present during the whole of the interview, or only during the first part?—They were there during the day. They were in her company during the day, but whether they went out a little while?—I suppose they did, but I do not remember it distinctly.

That does not much differ from the account given by Coyne, but if Coyne's account were incorrect there were other persons present who might have been called to contradict him. There were good reasons why they did not call Holmes, but they might have called Mr. Leet. What reason did the defendant give for taking the attorney and Mr. Leet was a question naturally put to the defendant, and he replied, 'To protect him,' but it is difficult to know from whom he required protection in Paris. There were in Paris persons quite competent to form a judgment whether he was Roger or not. There were still alive M. Chatillon, the Abbé Salis, M. d'Arance, M. de Brimont, and Père Lefèvre.

The only person allowed to see him was M. Chatillon, and he says that Lady Tichborne came to him and said that she wanted him to come at once and recognize her son, who had just come back. She would not wait for him to take his *déjeuner*, but carried him off at once. When he got to the hotel he took the very sensible precaution of suggesting to her not to mention his name, but the moment they reached the apartment where the defendant was she said, 'Sir Roger, M. Chatillon.' He on the first impulse of the moment said, 'My dear Roger, I am very happy to see you after your long absence, but after looking at him he stepped back three paces, and said, 'My lady, this is not your son.' She said, 'You do not embrace Roger.' 'No, my lady, it is not him.' He says, 'There were there the lawyer, Mr. Holmes, and the interpreter. She told me he did not speak French any longer. I repeated, "It is not Roger." Then he had some breakfast, and afterwards put questions to the defendant in French through the interpreter. He asked, 'With whom did you breakfast and dine the last day you were at Paris?' We know, if the evidence is to be relied on, that he breakfasted with M. Chatillon and dined at his father's house. The defendant said he did not know. Then M.

Chatillon asked, what chain he had on when leaving, and he said, 'It was gold.' We know he took a silver chain with him. He also said he did not remember the trips to Normandy and Brittany. Lady Tichborne said, 'Chatillon, you must not ask him any more. He has seen so many things that he no longer remembers anything.' That is the convenient view she adopted. 'All this time,' says M. Chatillon, 'he had his head hidden in his pocket-handkerchief. He was hiding his face in order that I might not see him. After that he got up and left the room, and I saw him no more.' This was on the Monday. It was arranged that M. Chatillon should lunch with them again on the Thursday, but the meeting was put off. He called a second time at the hotel, but Mr. Holmes said the defendant was ill, and could not be seen, and M. Chatillon had not an opportunity of another interview. In cross-examination the witness says:—

'He said, "I should have recognized you anywhere," but it was after my name was told him.' 'Do you remember Lady Tichborne saying, "Do you recognize him?"'—'She asked me, and I said, "No, it is not your son." 'Did not you say, "I must search, I must recollect, I must think?"' 'I said, "From now to Thursday I might perhaps remember something." 'Did Lady Tichborne then say, "Surely you can say whether you recognize my son or not?"'—'No she did not.'

Then he is asked about an important matter. You know that when they went to Pornic, Roger, after bathing in the sea, had a fall, which seriously hurt him at the time. In this conversation the defendant said he did not remember the trip to Pornic. M. Chatillon expressed surprise, mentioned the fall and the effect it produced, representing it as causing a sort of indentation in the head, and describing it by squeezing his hat together and making a sort of vacant space like the mark made in Roger's head. M. Chatillon says the effect of the accident was to cause, not a cut, but simply an impression on the substance of the head, and that afterwards, when the effects of the blow had ceased, this appearance ceased also. But when Chatillon spoke of this blow the defendant said he had a scar at the back of his head. They searched for the scar then and there, but could not find it; but the defendant subsequently said it was found the next day by a hairdresser. How that scar was produced is another important question. The defendant gives a wholly different account of the interview with M. Chatillon. At the end of his cross-examination, however, he admits that he knew Chatillon was sent for, and he does not deny that he was announced to him by name. In the course of the cross-examination the defendant gets into a wrangle with the Solicitor-General, the defendant alleging that the Solicitor-General was endeavouring to get him to perjure himself. Mr. Sergeant Ballantine for once seems to have been ashamed of his client, and begs him to confine himself to answering questions, though the defendant declines to follow his counsel's advice.

Then there was M. de Brimont, who lived in the Place de la Madeleine, and who was a connexion of the family. He asked to see the photograph of the defendant, but Lady Tichborne said her son was much altered, and would not show it. She wished that M. de Brimont should testify to the identity of the defendant with Roger, but he declined to do so until he had refreshed himself on the point. Thereupon she said he had no right to investigate the matter in the way he desired and she asked him if he wished to please her

speak to the identity of the defendant with Roger Tichborne. The Abbé Salis was asked to go and see Roger at his hotel, but he declined to do so, as he felt sure he was not Roger Tichborne, because if he were, he felt sure he would have come to see him without delay. Besides the Abbé had heard the opinion of M. Ohatillon. He also says that Lady Tichborne held out to him the prospect of reward if he would come and acknowledge her son. The learned counsel goes the length of terming the Abbé an 'infamous priest,' although he certainly looked like one of those Frenchmen of the old school whom we are all inclined more or less to respect. Why should the learned counsel call him infamous, and employ the word in connexion with his calling? The fact that a man professes a religion different from our own is no reason why he should be abused, and I do not know why the Abbé Salis should be styled 'an infamous priest' by the learned counsel merely because the defendant did not like his evidence. I cannot but regret that opprobrious and offensive terms should have been thus recklessly bandied about. Such language does not tend to the elucidation of the truth nor to the proper administration of justice; neither is it consistent with that delicacy of feeling that characterizes the English Bar, and which I have never seen so thoroughly disregarded as it has been in this case. I understood the meaning of the Abbé to be that, as he had long been the means of distributing the charity of Lady Tichborne, if he could gratify her in this respect she would entrust him with *resh* pecuniary assistance to bestow that aid, the bestowal of which was agreeable to them both.

Now, one of the difficulties which stood in the way of Lady Tichborne being satisfied that the Claimant was her son was the reference which he had made or the message which he had sent to his supposed grandfather. In her letter she says, 'Roger never knew his grandfather because his grandfather was dead before I was married to his father.' Well, one wants some explanation of this, and accordingly he was asked about it in his cross-examination, and he swears that his mother was mistaken. He says, 'I knew Mr. Seymour at Knoyle very well, and if he was my mother's father he must have been my grandfather.' Then the Attorney-General for a long time pressed the defendant as to whether he had sent a message to his grandfather, without, however, obtaining any result except a protest that he was endeavouring to bewilder him, upon which the Lord Chief Justice, instead of rebuking him, simply said, 'Attend to the question, and endeavour to answer it.' Ultimately he is asked this important question, which bears not only upon the question, but also upon the identity of Roger Tichborne. We know very well that Roger Tichborne never did speak of Mr. Seymour as his grandfather. He was asked, 'Do you mean to say on your oath that your relationship with Mr. Seymour was so recognized that you called him your grandfather?' and he answered, 'Most undoubtedly I did. In speaking to him I don't think I ever addressed him as my grandfather, but in speaking of him to any one I think I did.' Then he is asked, 'Don't you know perfectly well that the relationship between your mother and the Seymours was carefully suppressed?' and the defendant said, 'You are wishing to expose it to the public court.'

It is quite clear, however, that the defendant himself introduced the question of Mr. Seymour being his grandfather. The Solicitor-General entered upon the cross-examination under the

supposition that he must mean the paternal grandfather. That is what Lady Tichborne thought, because she knew perfectly well that the relationship between the grandfather and grandson was never recognised. We have the evidence of the Seymour family, who all agree upon that; and we have the correspondence in which the Seymours are referred to again and again; and what is more striking still is that Roger, in his own letter to his mother, does not speak of Mr. Seymour as her father or his grandfather, but uniformly as Mr. Seymour.

A Juror.—Did not Mr. Seymour die in 1849?

The LORD CHIEF JUSTICE.—He died on the 27th of November, 1848.

A Juror.—And was the message supposed to be sent to a person who was dead?

The LORD CHIEF JUSTICE.—Oh, yes, there is that further difficulty as to the message. The Solicitor-General endeavoured to elicit the fact that the message was addressed directly to the grandfather, and that it was not a message which merely referred to him. Of course, as Mr. Seymour had died in 1848, it could not have really been addressed directly to him. Having returned to Paris, which he did before the end of January, the defendant, at that time having taken a house at Croydon, begins a correspondence which is of considerable importance in this case. Here is a letter to which I must beg to call your careful attention. There is no date, but there is no doubt it was written immediately after his return from Paris:—

'3, Sydenham-road, Croydon.

'Dear Rouse,—I only received your letter last night, as it was 9 o'clock last night before we returned from Paris. I have been very ill for several days in Paris, and could not come here. I have seen all those anonymous paragraphs in the papers, but have thought them below my notice, as I know the public will soon be convinced of the truth. You know I expected to find in Gosford a friend, but when I arrived in London from your place I found that, instead of the people in Rio proving my death, it was no other than Gosford and Slaughter, who proved that I was dead, and died on the 28th of April, 1854, and by so doing have deprived my father and mother out of any of the Doughty estate. They have been doing a very nice thing, but, however, I have taken such proceedings against them and others that some of them will be astonished by and by. I shall be compelled to eject all tenants at Tichborne unless they promise to pay their rent to me. Mama will be here on Sunday. She is going to stay with me till this business is over. There are a great many people against me. They even employed a solicitor in Paris to watch my movements. I believe Moore is in Scotland. When he came home from Valparaiso he told Mama I owed him 50*l*. I got paid, but I shall have the pleasure of letting him know what I owed him. I have been proceeding very slowly, but very surely. Hoping you and your family are well, I remain yours sincerely,

'R. C. TICHBORNE, Bart.'

Observe the phrase, 'by so doing they have deprived my father and mother out of any of the Doughty estates.' Why, more prodigious nonsense was never penned by mortal man. The interest of his father in the Doughty estate was wholly independent of Roger Tichborne and of Roger Tichborne's will. The estate Sir James took in the Doughty property was unalterably fixed by the settlement of 1852, under which he took an estate in remainder on the decease of Sir

Edward Doughty, on whose death he became possessed of an estate for life. While that life lasted the son could do nothing with the property except dispose of his reversionary interest in it. The defendant says in the letter I have just read to you,—‘There are a great many people against me. They even employed a solicitor in Paris to watch my movements.’ Now, the only solicitor he could mean was Mr. Bowker, and certainly this was a most unworthy assertion as regards Mr. Bowker, who went to Paris, not in order to watch the Claimant, but as the established solicitor of Lady Tichborne, and at her express desire. Indeed, Mr. Bowker did not stay in Paris, for when he found Lady Tichborne did not want him any more away he went. The letter is signed, ‘B. C. Tichborne, Bart.’ Observation has been made upon that, because no man would sign his name in that way any more than a peer would put after his surname duke, marquis, earl, or viscount. At the same time that must not be pressed too strongly, because a man who went away from England early in life, and had spent ten or twelve years in the woods of Australia, might not know what was the custom in this country. In this remarkable letter of twenty lines there are no less than fifteen small ‘i’s,’ five of them at the beginning of sentences. Only, you must not attach great importance to that, which in an Englishman would bear the character of a total want of education, because the French do write the nominative case of the first personal pronoun with a small letter, though not at the beginning of sentences. But Roger Tichborne never wrote ‘i’ in the letters we have seen, and, therefore, it is a remarkable circumstance that the defendant should write the pronoun with a small letter to this extent. There are only two large ‘I’s’ in the whole of the letter, and there are seven misspellings, four mistakes of grammar, and six small initials where there should be capitals.

He went back after this letter to Alresford, and became acquainted with Mr. Baigent, a man well acquainted with the history of the family. Mr. Baigent advised him not to keep aloof from his family, and that is the natural course which a man might be expected to follow. It must have struck you as strange that after he had been to Paris and seen his mother he did not write to his aunt, Lady Doughty, and to Mr. Gosford, his confidential friend. It was clear there was no longer any necessity for concealment.

The suggestion made by the learned counsel for the defendant is that the persons to whom he would naturally have resorted were leagued and combined together against him, and from the outset of the controversy a most unjust and unworthy attempt has been made to represent all those persons as engaged in a vast and wicked conspiracy to represent him as an impostor seeking to establish a false claim, whereas they knew all the while that he was the true man. Now let us consider the character of the parties against whom this charge has been preferred. The counsel for the defendant spoke of the Tichborne family as if it consisted of persons who, being in possession of these estates, were endeavouring to keep them from the man who they knew was the rightful owner. I reminded the learned counsel that the assumption was wholly unfounded; that the only persons in possession of the estates were the trustees for the infant son of Sir Alfred Tichborne; that the other members of the family were not in possession, and that, therefore, it was

unjust to bring such a charge against them. When I first made those remarks, the learned counsel for the defendant appeared to yield, and yet in his second speech he used the very same language and resorted to the very same misrepresentation. Still they may have had an interest in the estates that possibly may have had the effect of inducing them to refuse to acknowledge a man whom they otherwise might have acknowledged. As regards the Seymour family, however, it is impossible to make any such suggestion, because they had no interest under either the settlements or Roger Tichborne’s will. No state circumstances which could possibly arise would in any way affect their position.

‘Ah, but,’ says the learned counsel, ‘nevertheless there was a sinister motive no doubt operating in their minds.’ It certainly baffled my ingenuity to know what it could be. ‘Oh,’ says he, ‘Roger Tichborne made a will by which he disposed of his reversionary interest in the Doughty estates, and omitted to put any of the Seymours in for any of the remainders. This disgusted them with Roger and made them capable, when he came back, of the inconceivable baseness of leaguering themselves against him, although they knew him to be the right man.’ That imputation is deliberately cast upon two gentlemen whose honour and character have stood to the present moment unimpeached, and upon two ladies—Mrs. Bouverie and Lady Rawlinson—whose conduct and character are above all reproach. You, gentlemen, must not allow the defendant to be prejudiced by representations of this kind, which I believe arose out of the disposition of his counsel to see everything in the blackest and darkest light, and to impute corrupt and wicked motives to persons whose character ought to have protected them against such unworthy and abominable imputations.

A Juror.—It often occurred to me, my lord, that the abuse was measured by the importance of the witnesses.

THE LORD CHIEF JUSTICE.—I do not wish to stand between Mr. Kenely and that observation, which seems to be a just one. I can only hope that the example set by the learned counsel will not be followed by the Bar of England. As the matter at present stands, if the defendant be not Roger Tichborne the estates would go to the son of Sir Alfred Tichborne; but supposing that Sir Alfred’s son should not grow up to manhood, or should not marry and leave issue, the estates would then go to James Dormer, the cousin. I do not know whether he has any children or not.

MR. CHAPMAN BARBER.—He has barred the entail, my lord.

THE LORD CHIEF JUSTICE.—Then what I was about to say will have no effect at all. By the settlement of 1854 the ultimate remainder was to the heir of the settlor, and in that case the daughters of Sir Henry Tichborne would be co-heiresses and would take their share of the estate.

MR. CHAPMAN BARBER.—Sir Henry Tichborne devised it to Lady Tichborne for life and to Mr. Dormer in tail. They have barred the entail.

THE LORD CHIEF JUSTICE.—In that case they are in just the same position as the Seymours. From what motive, then, are we to suppose that they have entered into a vile and detestable conspiracy, the purposes of which are to be carried out by deliberate perjury? These persons are not the scum of the earth, but persons whose characters have hitherto stood without reproach

Nevertheless, you are told that these people are waging an iniquitous warfare against the defendant for the purpose of keeping him out of the estates to which they know him to be entitled. It is really painful to find accusations thus scattered broadcast against persons of irreproachable character. There was nothing to warrant such imputations, and the counsel for the defendant did not wait to inquire whether there was any foundation for them. If he had applied to Mr. Chapman Barber, who knows the title to these estates, he would have learnt that there was no ground for statements about collaterals being in possession and fighting against the defendant. If the learned counsel had taken the trouble to inquire into the facts, I imagine that even he, who deals in wholesale accusations, would have hesitated to make so frightful a charge.

In the neighbourhood of Tichborne there lived Colonel Greenwood and his wife, who was Roger Tichborne's first cousin. Mr. Baigent pressed the defendant to go to their residence at Brookwood, but instead of doing so he sent the following letter, which has acquired great fame as the Cousing Kate letter':—

Alresford, 3d Feby 1867.

'My dear cousing Kate,—I am very sorry I am not able to come and see you before I go. my head is so bad that I am not fit to come. Mr. Baigent is very much annoyed about it. but I am coming here to spend a fne day at the end of the week and I shall then have the pleasure of meeting you again. you will excuse me for not coming, has it will only be a fne day before I am with you. I have an invitation from Mr. Hopkins to spend a fne day (sic) with him so I shall be down about Thursday. give my regard to Cousing William and G I shall soon be down again and have the pleasure of a hunt with my old friend George.

'With my best regards my dear cousin to you and your family

'I remain your affectionate
(sic) cousin R. C. TICHBORNE.

'I have to meet Mamma to-morrow at dover and our address will be Essex lodge thornton heath Graydon (Croydon).'

It so happens that the last letter Roger Tichborne ever wrote before leaving England was also addressed to Mrs. Greenwood, and it is fair that the two letters should be placed in juxtaposition for the purpose of comparison. On the 6th of December, 1852, Roger Tichborne wrote as follows:—

*Upton-house,
Poole, Dorset.*

'My dear Cousin,

'I shall not, I am sorry to say, be able to go and spend a day or two at Brookwood, as you had the kindness to invite me the last time had the pleasure of seeing you. I shall be obliged to go to Paris at the beginning of next week, where I shall remain, in all probability, till about a week or ten days before I embark for South America.

'My time is in consequence so much taken up with one thing or other that it will be, I regret to say, impossible for me to leave Upton this week.

'I should feel much obliged if, when you have a moment to spare, you favoured me with a letter. Though I shall be far away, it will always give me much pleasure during my wanderings in South America to hear from you or Colonel Greenwood.

'I certainly will answer your letters (though you must excuse my bad handwriting) and give you an account, if you feel any interest in it, what kind of sport I get at the top of the Andes and in the middle of the forest of South America.

'Pray remember me very kindly to Colonel Greenwood and

'Believe me, my dear Cousin,

'Your affectionate Cousin,

'6 December, 1852.' R. C. TICHBORNE.

It is for you, gentlemen, to judge whether these two letters could have been written by the same hand.

And now comes this letter addressed by the defendant to Mr. Danby Seymour:—

Alfred 10 Feb 1867

'My dear Uncle,—You will excuse me not communicating with you before. I have been so shamefully treated since I have arrived in England that I did not choose where my friends. I am staying with my old friends Mr. Hopkins for a fne day and if you could come down I would so much like to see you. I am very glad to hear you are a member for Poole. I suppose you remember the time they wanted me to stand for it. Hoping my dear Uncle to see you before long and renew that old friendship that once existed between us again,

'I remain your Affectionate Nephew,

'R. C. D. TICHBORNE.

'I expect Mamma to arrive every day (turn over) Mamma is going to with and my wife at Essex Lodge.

'Thornton heath

'Croydon

'Nr London.'

Mr. Danby Seymour says he never heard of Roger Tichborne being asked to stand for Poole, and, indeed, it is hardly possible he could have been. There were already two Liberal candidates, and to ask him to come forward as a third Liberal candidate would have been to ask him to weaken his uncle's chance of success, and to frustrate the very object for which, as we know, he went down to Poole. The defendant gives a very curious explanation of the matter. He says he was asked to come forward not at the general election, but at some intermediate election, and he adds that he declines to do so on the ground of his intending to go abroad. It is an undoubted fact that there were only two elections for Poole—namely, in 1850 and in 1852—during the time when Roger arrived at man's estate. It is true that one witness said he remembered some persons going out at his suggestion to see Roger Tichborne, and he would give us to understand that the purpose of the expedition to Upton was to induce him to come forward as a candidate. It is difficult, however, to reconcile this statement with the fact of Roger having gone to Poole in order to assist Mr. Danby Seymour. The letter which I have just read led to the defendant having an interview with Mr. Seymour, the circumstances of which we will consider to-morrow.

TENTH DAY. Thursday, February 12, 1874.

Gentlemen, I had finished yesterday the observations I had to make on the subject of the letter which was addressed by the defendant to Mr. Danby Seymour upon his return from Paris. The rest of that letter was that Mr. Danby Seymour

determined to go down to Alresford and call at Mr. Hopkins's to see the defendant. Now, you remember that on the occasion of his first visit to Alresford the defendant did not call upon or put himself into communication with Mr. Hopkins,

but preparatory to his second visit he writes him a letter, one passage in which has been made the subject of so much comment by the learned counsel for the defendant. The letter runs thus:—

'1st February, 1867.

'My dear friend,—You will, no doubt, think it strange that I did not call on you when at Alresford. I should have done so with pleasure had I not been under a promise to mama not to converse with anybody I knew until I had seen her. I now know her reasons, and am very glad I kept my promise. I suppose you have heard how I have been served by Gosforth and others since I have been away. I should not have gone to Alresford, only I thought nobody would know me, as I have grown so stout, so I thought I would have a quite look round. I know you and Dr. Lipscombe are old friends, so perhaps you will kindly tell him the reason I did not call on him. Likewise if mama does not send for me to meet her, most likely I will come down with Mr. Holmes tomorrow. Hoping, my dear Hopkins, that old friendship that once existed between us may again be renewed, and I may again have the pleasure of having your advice how to act.'

New, upon that I cannot help saying that when I look at Roger Tichborne's letters I find, not only that he never resorted to Mr. Hopkins for advice, but when he heard that Mr. Hopkins upon one occasion said he was acting as his adviser, he makes the observation that it was the first time that he was aware that Mr. Hopkins was his adviser; and you remember Lady Doughty, in writing to Roger, said, 'I know your affection for the firm of Dunn and Hopkins,' meaning, of course, the reverse. Then comes this passage:—

'I suppose you remember having heard of a Miss Bellow in Ireland. Rumour only. Hoping to have the pleasure of meeting you before long, I remain, yours, faithfully,

'R. C. D. TICHBORNE.'

There are, I observe, 14 printed lines, in which there are two large 'I's and 16 small 'i's. Now, that allusion to Miss Bellow is supposed to have been put forward as a sort of proof. It is said there might have been something that happened with respect to this Miss Bellow of which Mr. Hopkins was cognizant. It is natural to ask what that was. Lord Bellow was asked if anything had happened between Roger Tichborne and either of his sisters. We know nothing of the sort. Nor is there any trace of it in Roger Tichborne's letters. All that he says is that when at Dublin he used to go over to spend a day, or not more than one, or at the outside two days at a time, at the seat of the late Lord Bellow. It was intimated that some reference might be intended to a matrimonial arrangement between Roger Tichborne and Miss Bellow. Lord Bellow laughed at the idea of anything having occurred which was likely to end in a marriage. The defendant's counsel, who put this forward as an explicable mystery, seems to have forgotten what we cannot forget, that the man supposed to be a party to all this, and who actually wrote the passage, was sitting in front of him, and why did he not put the question to him, instead of to Lord Bellow? But the defendant's counsel, instead of doing this, leaves the matter in this mysterious way. He says he does not know what it was, and Lord Bellow will not tell him.

We do not know at the present day what the circumstances were that induced Mr. Hopkins to

take up the case of the defendant with the warmth which he certainly did. I don't know whether it was that he believed in the identity of the defendant—I mean judging the defendant from his personal appearance. But if not he must have taken a favourable view of the case, from the knowledge which the defendant manifested, I suppose, with reference to the circumstances of the family, and, above all, of the property. We do know that the defendant and Mr. Holmes paid a visit to Doctors' Commons to see Roger Tichborne's will, and I think there cannot be very much doubt that Holmes—who knew very well what he was about—took care to have a copy of the will, which he could have on paying for it. Then again, Rous, with whom at this time the defendant was in close association, knew everything connected with the family settlements, and I dare say that at that time the defendant knew a great deal about the affairs of the family and about the settlements. These circumstances and this show of knowledge would be calculated to make a deep impression upon Mr. Hopkins. But if the defendant at the time had shown the lamentable ignorance which he subsequently showed in his cross-examination in the Court of Common Pleas, and Mr. Hopkins had been cognizant of it, and still continued to believe in the defendant, you would have had to ask yourselves whether, under such circumstances, his opinion would have been worth much. For certainly, at the time of the trial, the defendant made some of the most terrible blunders that it is possible to conceive. It may be that the defendant, if he be Roger Tichborne, had forgotten all he had known about the property. It may be, on the other hand, that the defendant had learnt a lesson as to it in 1867, and that it had passed out of his memory before the trial in the Common Pleas. That is entirely for you. But, however it may be, certain it is that Mr. Hopkins—and the defendant is entitled to the full benefit of the fact—took up the cause of the defendant with zeal, indeed with an amount of vehemence which struck many persons, and which went beyond the ordinary course of a legal adviser, and what strict legal decorum would allow.

A Juror inquired the date of Mr. Hopkins's death.

Mr. Hawkins said it occurred in October, 1868.

The LORD CHIEF JUSTICE.—Well, gentlemen, Mr. Danby Seymour went to Alresford accompanied by Mr. Bardon, who had been in the service of Mr. Tichborne until after he came to reside in this country as Sir James Tichborne, and who knew Roger Tichborne well, having frequently attended on him and seen him during his last visit to Paris. They went to the Swan Hotel, but found that the defendant was not there. Mr. Seymour, looking out of the window, saw Mr. Hopkins going down the street with the defendant, who he did not recognize, and went after them, along with Burdon. According to Mr. Seymour's evidence, Mr. Hopkins, when he came up to them, said, introducing them, 'This is Sir Roger Tichborne; Mr. Danby Seymour.' Now, this was a strange proceeding on the part of Mr. Hopkins, and, I can't help thinking, not altogether a loyal one, because if the defendant had been Roger Tichborne he would have known Mr. Danby Seymour as well as any one could. This struck Mr. Seymour, but he said nothing whatever about it. Then he says they went into Hopkins's house together, and 'I said to defendant, "If you are Roger Tichborne you

know this gentleman," turning to Burdon. The defendant looked at him, and after a short time said, "That is my uncle Nangle." If that is what he said he could not have made a more unfortunate shot, because Mr. Nangle was about 70 years of age, while Burdon was only between 30 and 40. The defendant explains it in this way. He says, 'I did not say my uncle Nangle, but one of the Nangles.' I may say that is, I think, the more probable by reason of the difference in the ages of the two. Burdon, however, in his evidence, says the same thing as Mr. Seymour. Let us take, however, the view which the defendant put forward, and assume that there may have been some mistake as to what he said, and that he said, 'One of the Nangles, or one of the sons of my uncle Nangle.' Roger Tichborne knew the Nangles from the time they were boys together in Paris, and must also have known William Burdon, who was in his father's service so long. The presumption is altogether favourable to the theory that Roger should have known this, and could not have mistaken Burdon for one of his cousins.

Well, Mr. Seymour says he made up his mind to ask the defendant one or two questions. He first addressed him in French, and the defendant's answer was that he could not speak in French. He said he had forgotten it. Mr. Seymour was surprised at that because he had nearly always talked French with Roger Tichborne. The conversation then turned upon the Bella. The defendant was asked how he was saved from shipwreck. His reply was that a ship called the Osprey saved him, the captain's name being Lewis Owen or Owen Lewis, and that several sailors were saved with him. He was asked their names. He said he did not know their names, as they generally went by nicknames. It is odd that some time afterwards, when one of the owners of the Bella wrote to Mr. Hopkins for the names of the men who were picked up with the defendant—he having a relation on board—the defendant gave Mr. Hopkins four or six names, and a nickname, 'Yorkie,' but, according to the evidence, he could not tell the names of any of the crew who he said were saved with him.

Mr. Seymour goes on to say he expressed surprise at the fact that the defendant had not come to see his sisters—the real Roger Tichborne having been intimate with them. In the course of this interview a circumstance happened which appears to me the most important part of it. Burdon, who, according to the evidence, was in the room sitting at the table, produced an envelope which had been addressed to himself, and asked the defendant if he knew the writing. The defendant looked at the writing for some time, and then said, 'I do not know it.' Mr. Hopkins looked at it and exclaimed, 'Good God, that is your father's handwriting—not know your father's handwriting?' The envelope had been addressed to Burdon by Sir James Tichborne. If that be so, it is certainly a strange thing for a man not to know the handwriting of his own father, with whom he had frequently been in correspondence. Mr. Seymour put another question to test the identity of the defendant. You will remember that when Roger Tichborne was a boy the old general, Count Mandeville, one of his father's most intimate friends, made a present of a breast-pin to Roger, who wore the pin in remembrance of so kind a friend, and wrote about it from Stonyhurst. In reference to this Mr. Seymour says that his answer was he did not remember *any such person*.

Mr. Seymour says he made up his mind that the defendant was not Roger Tichborne, and said:—'I cannot recognise you in any way. I said so positively, but I spoke politely. I invited him to come and see my sisters, and I told him they were willing to recognise him if they could, and invited him, through me, to call on them. He said he would, and it was arranged that he should call the next day at Upper Grosvenor-street.' Mr. Seymour, on returning to town, wrote to the Greenwoods and made arrangements with other members of the family to be present at the interview. The defendant, however, did not keep his engagement. There is one more incident at this interview to which I should draw your attention. A helmet was produced which had been worn by Roger Tichborne in the Carabineers, and had been left by him at Tichborne House. Colonel Lushington, who then occupied the family residence at the time, believing the defendant to be Roger Tichborne, sent it to Mr. Hopkins. Mr. Seymour says:—'After we had luncheon, the defendant went aside to the other room and produced a helmet, which he said was his when in the Carabineers. He put it on, but it seemed to be too small for him—he could barely get it on.' When Mr. Seymour was cross-examined about this meeting he said that he expressed to the defendant as decidedly as he could that he did not recognise him as Roger, and that nothing was said which could be by any possibility construed into a different meaning. And in answer to Mr. Hawkins, on re-examination, he says decidedly that there was nothing in his manner or language which implied that she recognised the defendant.

Then comes the evidence of Burdon, who, you will remember, was brought up at Upton, sent to school by Sir Edward Doughty, and in 1845 was taken into his service. After Sir Edward's death he went into the service of Sir James, and he therefore knew Roger Tichborne well. He says Mr. Seymour followed Mr. Hopkins in Alresford, touching him on the shoulder, and said, 'Good morning, Mr. Hopkins.' Mr. Hopkins said, 'Good morning, Mr. Seymour,' adding, 'Sir Roger Charles Tichborne, Mr. Seymour.' And then he says, 'That man's face,' pointing to the defendant, 'turned as red as the sun.' He held out his hand, and Mr. Seymour said, 'I cannot recognise you as Sir Roger Charles Tichborne.' When they got to Mr. Hopkins's house Mr. Seymour said to the defendant, 'You know this gentleman?' The defendant made answer, 'I don't know him. I think he is my uncle Nangle.' The witness bears out Mr. Seymour's statement in that respect. Then Mr. Seymour asked him several questions about the shipwreck, and defendant said he had been lost in the Bella, was picked up by the Osprey, and taken to Melbourne, and had knocked about in different parts of the country. Mr. Seymour spoke to him in French, and said, 'Parlez-vous Français?' The witness says the answer was in English, but it was an evasion of the question. Then Burdon says Mr. Seymour asked the defendant why he had not called upon his friends and relatives, but that the defendant declined to answer further questions unless his legal adviser was present. Next he states a thing which certainly is a little startling, and perhaps it may not meet with ready belief. He says, as they were going away, Mr. Hopkins said, 'For God's sake, don't mention anything of this painful affair, for my honour is at stake.' It certainly seems very strange that he should have thought it necessary to make such an observation.

Well, gentlemen, the defendant is cross-examined as to this interview, and it is right that I should read what he stated in reference to it, as there is a direct conflict of testimony between him and the two witnesses, Mr. Seymour and Burdon, to whose evidence I have just directed your attention:—

‘Did you see Mr. Seymour very soon after writing the letter of 1867?—I believe I did, while I was at Mr. Hopkins’s at Alresford. We met for the first time at the door of Mr. Hopkins’s house. Did he say, “How do you do? Do you remember me?”—No; he said, “Who am I?” Did not Mr. Hopkins say it was Mr. Seymour?—No. It was I who said so. I said it was Henry Seymour. Did he say, “If that’s Roger Tichborne he will know the person with me,” and did you say, “Why, that’s my uncle Nangle?”—No. I said, “He looks like one of the Nangles.” Mr. Nangle is about 70?—There are two or three sons who are young. No doubt; but did you say your “Uncle Nangle?”—No. [The Claimant requested to be allowed to give his own account of the meeting with Mr. Seymour. He said, “Mr. Seymour came in, and some one was with him. Mr. Hopkins said, “Who is this?” and Mr. Seymour replied that it was one of Sir James’s old servants, whereupon I said, “Why, it’s Burdon;” and, though I had seen him a few days before, he looked so different altogether that I did not at first recognise him. Mr. Seymour had got him “tugged out,” and brought him down in a first-class carriage.] Did Mr. Seymour ask to go into the room and have some talk?—No, he would not go into any room without Burdon, and Mr. Hopkins said he did not allow servants to enter his rooms, and that if he could not go into the room without Burdon he should say no more. Burdon never came into the room; he went into the library; nor did Mr. Hopkins propose to withdraw. Did they all sit down?—Yes. Did Mr. Seymour speak to you in French?—Yes. Did you say you did not understand it?—No, but I answered him in English. But you did understand?—Yes. What did he say?—I cannot remember. How long did the conversation in French last?—If you timed it by a stop-watch, about 40 seconds; there were only two or three words spoken in French, and then we both talked English during the rest of the interview. I told him I could not speak French. The Lord Chief Justice.—Can you speak French at all?—No.

‘Did Mr. Henry Seymour ask for an account of the shipwreck, and did you give him one?—No. I never spoke about the shipwreck. I was only in the room five minutes. He said he could not stay in the room without Burdon, so I said, chaffingly, that being so, I would go into the garden and smoke a cigar. Did Burdon put an envelope on the table and ask you if you knew the writing?—No, he did not. And you could not tell, and Mr. Hopkins said, “This is your father’s handwriting, Sir Roger?”—No. Were you asked to take some refreshment in another room, and did you say that you should prefer Burdon remaining?—Nothing of the sort. Was it a long conversation?—No. I was in the presence of Mr. Seymour about five minutes in the dining-room, and no more. He did not ask about your visits to and amusements at Knoyle?—No. And did he not ask if the principal amusements there were fishing and shooting?—He did not. Was a helmet produced and tried on?—Not while Mr. Seymour was there. Was it not brought and tried on, and did not Mr. Seymour say it did not seem to fit very well?—No;

Mr. Hopkins did not put any helmet on my head in Mr. Seymour’s presence on that or any other occasion. Did Mr. Hopkins bring it, saying it was Roger’s helmet when he was in the Carabineers?—It was never produced at all. Did Mr. Seymour ask why you had not been to see your aunt?—No. Did he say he did not believe you were Roger Tichborne, but that if you had anything to say he was quite ready to receive you at 39, Grosvenor-street?—Just so, but not to me; it was said to Mr. Hopkins.

‘Was a large bundle of Roger C. Tichborne’s letters produced?—Not a letter of any description. Was a quantity of the real Roger Tichborne’s?—I am the real Roger Tichborne. I believe I saw one of my own letters at Mr. Hopkins, not a number. Were there underline marks drawing attention to particular words in those letters?—I saw no letters, I tell you. No letters, papers, or documents of any kind were produced by Mr. Hopkins in Mr. Seymour’s presence, and the only occasion on which Mr. Hopkins showed me a letter was when one day he tested me with it. Did Mr. Seymour go away saying he disbelieved you?—I was smoking in the garden when he left. When Mr. Seymour parted from you did he treat you as if you were his nephew?—Seeing that he would not remain in the room with me unless Burdon was present, I don’t think that he did. Did he throughout the interview treat you as if you were not his nephew?—Yes, he did certainly. Why, did he not say he did not believe you to be Sir Roger, but if you chose to call at 39, Grosvenor-street he would listen to anything you had to say?—Mr. Hopkins told me Mr. Seymour had very much altered his mind, but I suppose it was agreed on between Mr. Seymour and him that there was to be a meeting at 39, Grosvenor-street, and that he had very much altered his mind. The Solicitor-General.—Why, did not Mr. Seymour, in going away say he did not believe you were Sir Roger?—I take my solemn oath and positively swear I was in the garden when Mr. Seymour went away; if I am speaking falsely there are the servants of the house. Why did you not afterwards go to call on your uncle Seymour?—I can’t say. Just tell me, you had no quarrels with any members of your family, had you? Your father was dead. There was your mother. You had no quarrel with anybody else at that time, had you?—No; who said anything about a quarrel?—No-body. I am asking.

‘You had no quarrel with any member of your family. You were coming back to your family, with many members of whom you had not quarrelled, after thirteen years?—Yes. I suppose there were a number of your old friends up and the country, people at Alresford?—No doubt. Why did you not find out where some of your family or friends lived, and, instead of going and seeing Mr. Rous and Mr. Holmes and making a secret of it, go straight to them and say, “Here am I?”—Because I was instructed not to do so by my mother, and in such a way that I could not be off misunderstanding her—that is to say, I could not misunderstand her. You mean by letter?—By letter. Yes. Well, but you had revealed yourself; you had so far broken your mother’s injunction. With whom?—With Mr. Rous and Mr. Bowker. It merely mentioned members of my family. It distinctly mentioned members of my family. Why should you not have gone to your two uncles, with whom you had not had a word of difference—Henry and Alfred Seymour?—How was I to know

might not have been the very persons? Why did you not go and say "Here am I. If you have any doubt ask me any questions that you and I know. Do not let there be any mystery. Put me to any catechism you like"?—You could suggest a hundred different ways, and say why did I not do that. I did that which my mother wished me to do.

Here we have a set of contradictions which cannot arise from lack of memory. There must be false swearing on the one side or on the other. It is for you to say which is the true version of what occurred. Now, of the importance of that interview there cannot be any doubt. No one was better qualified to judge of the identity of the defendant than Mr. Seymour, but he went away, as he states, with a disbelief in his identity. At that interview the defendant made the double mistake—if you believe the witnesses—firstly, of believing that Burdon was one of his cousins, and secondly, of not knowing Burdon, whom, unless his memory failed him, Roger Tichborne would have known very well. Again, there was the circumstance of his not knowing one of his oldest friends, General Mandreville, and of his being altogether ignorant of his father's handwriting.

Now, there was a letter written by the defendant to Lady Tichborne describing that interview. The letter commences, 'My dear Mamma,' and the day of the month, the month of the year, and the year are indicated by figures, in the case of the month by the figure 2. Now, Roger Tichborne never dates his letters in this way. He generally dates them at the end of the letters, and writes the name of the month. That circumstance may have some little weight, but I don't attach much importance to it, for this reason, that in the course of time habits change. A man may well be supposed to adopt one form at one period of his life, and another at another. The letter is as follows:—

'Croydon, 15, 2, 67.'

'My dear Mamma.—I arrived here from Alresford night before last, so that I can come & meet you when you arrive at Dover. My dear Mamma I have met with many friends at Alresford that know me well. And have received (*sic*) a very welcome reception from them the Alresford Church Bells rung very merrily when I arrive. I received a visit from Col. Lushington at Mr. Hopkins. He lunch with us at Hopkins the next day with Mrs. Lushington, Hopkins and myself, & then returned with them to Tichborne. I pointed out to the Colonel the picture that belonged to me. The Col. found my helmet and put it on. it fit me now as well as ever. of course the Col. is perfectly satisfied and has acted very kindly and told me he would give up the house I at any time wanted it, and invited me to go and stay with him and take my wife there with me, but I cannot well do that at present. poor old Stubbs and Noble knew me as soon as they see me. Likewise a great many more about there the Tichborne bells rang for two days, and in fact I could not have been received more kindly. I have received a very kind letter from Mr. Scott. I have seen Mr. Seymour (*sic*), but he had been so poisoned by Cullington and Gosford that at first he would not own me. Mr. Hopkins very kindly had a long talk with him, and so did I. of course (*sic*) he soon altered his mind a little; he brought W. Barran (*sic*) there with him, but has Mr. Holmes had found out that William had been tampered with I would not allow him to my company, nor would Mr. Hopkins. Cul-

lington had told Uncle Henry that I was a client of Mr. Hopkins, and a great many more things that Henry did not know falsehood. Mr. Hopkins is living independent, and has only acted as a friend to me. there is a great many things I wish to speak to you about as soon as you come. I am now waiting for your telegram to come and meet you at Dover, my wife and child are quite well and very anxious to see you. They send their love to you my dear mama.

'I remain your
(*sic*) 'affectionate son,
'R. C. D. TICHBORNE.'

He speaks in this letter of a picture, but it may be that he intended to speak of pictures and omitted to add the 's.' You will remember, however, that Bogle had been to Tichborne House to look at the pictures, and it is a fair inference that he made a report with reference to them to the defendant. I observe that the defendant spells the word 'course,' 'cause,' and that is his invariable practice. Again, he says in the letter that the conversation with Mr. Seymour was a long one, while in his cross-examination he says it only lasted five minutes. It is worthy of observation, too, that Roger Tichborne never spoke of Mr. Seymour as 'Uncle Henry.' In this letter there are a great many mistakes in grammar and spelling, and no less than ten in the use of capital letters. Now, let us hear what the defendant says in the Common Pleas with reference to that letter:—

'The Attorney-General.—Is it true you had a long talk with Mr. Seymour?—No. What do you mean by saying in the letter, "Mr. Hopkins had a long talk with him, and so had I"?—I didn't mean to say I had a long talk with him. Mr. Hopkins had. And you say "of course he altered his mind a little"?—So Mr. Hopkins told me, that he altered his mind when he left. He did not tell you he altered his mind in consequence of your talk?—No. Mr. Hopkins told me his mind was very much altered when he went away. Did he say when he went away that he did not believe you to be Sir Roger, but that if you chose to call at 39, Grosvenor-street, he would see you again?—Mr. Hopkins told me he made an appointment for me to see Mr. Seymour at Grosvenor-street, and it was agreed that there was to be a meeting there. Did the meeting come off?—No. I think not. You know it did not?—Yes. The Attorney-General.—I ask you this—whether Mr. Seymour did not say to yourself that he did not believe you were Roger Charles Tichborne, but that if you chose to go to Grosvenor-street and talk to him he would be quite ready to see you; and whether you yourself did not appoint five o'clock the next day, and accompany Mr. Seymour and Burdon to Mr. Hopkins's door?—I'll take my positive oath and solemnly swear I was in the garden when Mr. Seymour went away. If I am speaking falsely it is easy to prove it by Mr. Hopkins's servants.'

He denies having made any appointment to meet members of the family for the next day. Mr. Holmes wrote to Mr. Seymour to state that as his client Sir Roger Tichborne had gone to Dover to meet his mother, they would not be able to call on him. The defendant in his cross-examination complained of the conduct towards him of Mr. Seymour, and gives that as a reason for not calling to see him and other members of the family. A further meeting was arranged at Mr. Seymour's house, and the appointment not having been kept, Messrs. Debinson and Geare, who were solicitors to the trustees, wrote to Mr. Holmes the following very proper letter:—

'57, Lincoln's-inn-Fields, Feb. 22, 1867.

'Dear Sir,—In our letter to you of the 7th of January last we stated that your client, whom you designate as Sir Roger Tichborne, would doubtless be received by the Tichborne family with open arms upon his identity with the eldest son of the late Sir James Tichborne being established.

'In the instance of Mr. Danby Seymour only has your client been allowed to have an interview with any member of the Tichborne family other than the Dowager Lady Tichborne, and then an appointment was made for a renewed interview on the following day, which was not kept by your client; and, again, another appointment was made for the day succeeding, which in like manner proved fruitless. Thus your client has held himself not only aloof, but in secret, from all whom he claims as his relatives, except the Dowager Lady Tichborne.

'It would seem to any candid mind that the issue is a very simple one.

'It is not a question of remote or intricate pedigree, but of mere personal identity, the times being of the most recent date.

'When Mr. Roger Charles Tichborne left this country he was 24 years of age; he had lived on the most intimate and affectionate and familiar intercourse with numerous friends and relatives; there are scores of persons now living who could identify him to a certainty. The great majority of his relatives have no pecuniary interest in the issue whether he be dead or living; they are persons of position and honour; irrespective of mere fortune, far above all possibility of being influenced by any other than honourable motives. There is not, and there cannot be, any reason why members of such a family should not only readily, but eagerly acknowledge the identity of a relative long supposed to be lost, and himself the representative and head of a family of distinction and fortune.

'To our minds it seems an imperative duty to try every means of preventing litigation when litigation ought not to exist; if you feel your client's claims to be well founded, you will not hesitate in permitting him to meet the relatives and friends with whom Mr. R. C. Tichborne lived and associated from early youth to the time of his leaving this country. We require such a meeting on behalf of those whom we represent, and it is a necessity, as we conceive, that your client submit to such requirement. He may surround himself with every protection and aid you think necessary on his behalf—counsel, solicitor, and friends, choosing time and place; but if he still, after this offer, refuses to meet those who are best able to form an opinion of his pretensions, he must expect to have them dealt with as groundless and wholly unworthy of credit. We hope, however, you will avail yourself of our suggestion and make arrangements for an early meeting.—We are, dear Sir, yours truly,

DOBSON AND GEARE.

'John Holmes, Esq., solicitor, 25, Poultry.'

Well, Mr. Holmes might have replied that he declined to advise his client to see his relations, as they had conceived a prejudice against him, and that as they were likely to treat him as though he was an impostor, an interview would not be likely to lead to any satisfactory result. He, however, preferred to adopt a high and lofty tone, and said in his reply:—

'You appear to ignore the fact that Sir Roger Tichborne has been already identified by those

with whom he lived and associated from early youth until he left England, and who could not possibly be mistaken as to his identity, and by those who have no personal interest one way or the other. As you have overlooked the important fact, allow me to remind you that upon his return to this country he went to Paris, and in the first instance visited his mother, and that she instantly recognised him; that Mr. Hopkins, of Alresford, who acted as solicitor for Sir Roger and his father, has most unreservedly identified him, and written to Lord Arundell and Mr. Danby Seymour informing them of the fact. Mr. Baigent, of Winchester, an old friend of the family, and many of the tenants, servants, and friends to whom my client was well known in youth, have also identified him. Surely, after this abundant proof that my client is Sir Roger, it is idle to talk of any further identification being required. And I may reasonably ask who it is the "Tichborne family" would suggest as being better qualified than the mother of Sir Roger to identify my client? On his part I insist that his identity has been already fully and sufficiently established.'

Twice he mentioned the 'Tichborne family' in inverted commas, and stated that since his arrival in England they had hunted his client, caused his footsteps to be traced, and broken in upon his privacy. 'Is there,' he said, 'the slightest ground for palliating such conduct, which was even pursued after he had placed himself under my direction, or doubting the object they had in view?' And he adds that he had submitted these letters to Sir Roger and Lady Tichborne, that they were indignant at the course which had been pursued, and that his client would hold those responsible who had adopted it.

It was, however, arranged that Mr. and Mrs. Radcliffe should have an interview with the defendant at his house in Croydon, and they went there on the 8th of March, accompanied by Mrs. Townley. Mr. Radcliffe and Mrs. Townley went in, leaving Mrs. Radcliffe in a cab at the gate. They were shown into a back drawing-room, and after a little time the defendant came in. Mr. Radcliffe having been announced, he jumped to the conclusion that the lady was his wife, and, going up to her, said, 'How do you do, Katie?' Mr. Radcliffe, in the course of his evidence, said he asked the defendant where they had last met, and he replied that they had never met before, whereas we know that they did meet once, and played together in private theatricals. Mrs. Townley then, he said, observed that there was another cousin outside, and Mr. Radcliffe having brought in his wife, the defendant either bowed or shook her by the hand, saying, 'How are you, Lucy?' or 'Mrs. Townley.' They then conversed upon different subjects, Mrs. Townley being regarded by the defendant as Mrs. Radcliffe, and Mrs. Radcliffe as Mrs. Townley.

Now, is it possible to think that a man after 12 years' absence could forget the features of the woman to whom he had been passionately attached, and, *a fortiori*, if anything such as the defendant alleges had occurred between them? Would he mistake for her a lady unlike her in features, and her senior in years? It is, therefore, a question of serious importance whether the mistake was made, and, if so, whether it was made under circumstances which afforded to the defendant a fair opportunity of seeing the two cousins. Now, upon that point the evidence is altogether uniform. It is not quite clear whether the ladies had their veils down or not, or, if

whether they were sufficiently transparent to enable him to see their countenances. The ladies do not agree upon that point. Mrs. Townley thinks her veil was down. Mrs. Radcliffe said she wore a thin spotted veil—that there was no difficulty in seeing her face through it. She adds, 'That I pulled up my veil after I sat down I am quite sure. That was after he had called me "Lucy" or "Mrs. Townley."' And she says, 'After he had had a full opportunity of seeing my face he still called me Mrs. Townley, and asked how Mr. Townley was.'

The Foreman.—There was a marked difference in the voices of the two ladies.

The LORD CHIEF JUSTICE.—That is a fact which is by no means unimportant. Even if features do not remain impressed upon the memory, the tones of the voice of one to whom you have listened with strong feelings of affection would not be likely to be mistaken. There would appear, however, to be some doubt and ambiguity as to the opportunity which the defendant had of seeing the faces of the ladies, and if you think there is, the defendant should have the benefit of it. Mr. Radcliffe said that matters were becoming confused; there was danger of getting into an imbroglio; the ladies would soon, he thought, have discovered to the defendant who they really were, and he told him that he was mistaken, to which the defendant replied, 'Oh! I perceive now you are Mrs. Townley, and you (Mrs. Radcliffe) are Katie.' Mrs. Townley states in her evidence that she then put some questions to him. She asked him what her mother, Lady Tichborne, was called, and he said, 'Aunt Annie.' That, she said, was wrong, as her mother had always been called Aunt Tichborne. She then asked him who her sisters were, and he said 'Eliza (Lady Dormer) and Katie Greenwood,' but of her sister, Mrs. Washington Hibbert, he knew nothing. She asked him about his visit to Towneley, to which Roger went in 1847 or 1843, and whether he recollected the house, and he said it was near Bath; but we know it is in the north of England, in Lancashire. Mrs. Towneley, being surprised at this answer, says, 'Do you say that Towneley is near Bath?' To this he answers, 'Oh! yes, I am sure of that.' Then, after some further conversation, the defendant said, 'I need not make any secret about it, I have got the captain and some of the sailors who were saved with me.' He didn't say the sailors of the *Bella*, but 'the sailors who were saved with me.' Then he is asked to relate some of his adventures in South America, but he said 'No'—that his lawyers told him he must not speak on that subject. Mrs. Radcliffe described the defendant as speaking with a French accent. She said she knew it was assumed, because when he became excited he dropped it. The whole conversation, she says, was in English, and he spoke in a sort of broken English. Mr. Radcliffe's testimony is to the same effect.

We now come to the defendant's account of what occurred. He is asked in cross-examination:—

'Did Mr. Radcliffe say, "There, you do not recollect your cousins?" Did you say, "No, I do not recognise them; they do not recognise me—they are all so altered?"—I said nothing of the kind. Did Mrs. Radcliffe then say to you, "When did we last meet?"—No. Did you say, "Do you not recollect, it was just before I left England?"—I did not. "When uncle Edward was so ill?"—I did not. Did she ask you if you remembered the house, and did you say, "No, I only recollect

uncle Edward's white pony which used to draw his wheelchair?"—Good gracious me! I never said such a thing as that. Nothing like that?—No, nothing like that. Was there no allusion as to the time when you and Mrs. Radcliffe had last met?—No, I think not. You think not?—No, none. Are you certain?—Quite certain. Did you say anything about the illness of your uncle Edward?—No. Not a word?—Not a word. This was the first meeting with your cousin?—Yes. Can you tell me what did pass?—Yes; they announced themselves as Mr. and Mrs. Radcliffe. My mother and myself were about to enter, when Mr. Radcliffe, in the most rudest (*sic*) manner possible, came and slammed the door in my mother's face, and said, "You are not wanted here." That put me in such a state I hardly knew what to do. I went up to the lady, and she said, "How do you do?" to me, and I said, "How do you do?" and took her hand. She was deeply veiled. I was speaking to her a few minutes. I found, to my great surprise, it was not Mrs. Radcliffe, and it was Mrs. Townley. I turned round and asked Mr. Radcliffe what he meant by telling me it was Mrs. Radcliffe. He said "Mrs. Radcliffe is outside in a cab," and he went and brought her in. Then it is quite untrue that the ladies came in together, and you spoke to Mrs. Radcliffe for Mrs. Townley?—Certainly it is. Did it occur to you, without intending any rudeness to Lady Tichborne—the object being to test who you were, and the question being whether you could recognise your cousin, whom Lady Tichborne knew—that Lady Tichborne might be better absent?—Do you think it would occur to you to see your mother insulted by a fellow like that in her own house—see the door slammed in her face? Did Mr. Radcliffe ask you this question—why you had not been to Lady Doughty?—No, he did not; the only words Mr. Radcliffe said to me were, "Now, here is your cousin who knew you, and who can talk about old times, you know." I said, "What happened between her and me is sacred, and will never come to you."

Now, gentlemen, that is positively contradicted by Mr. Radcliffe, and I declare, if I were the defendant, I should not know which alternative I would prefer—that of being guilty of perjury or using such language. What do you think of a man who, if he ever had illicit relations with a lady, would be bound by every feeling of honour to protect her reputation against the world, but, above all, to take care that, as far as he was concerned, not a hint should ever reach her husband of what had passed—what do you think of such a man using language to the husband which necessarily and unavoidably implied that he had relations with the lady before her marriage which must engender in her husband feelings that must destroy all the happiness of her future life? If it was anything consistent with her honour, there was no necessity for keeping it secret; but if there was anything which could shake the confidence of her husband in her, then to use such language implies a baseness, a meanness, an absence of every honourable feeling by which a man ought to be animated, compared with which, with the single exception of the charge against Lady Radcliffe—there is nothing in the whole case so bad.

And with respect to Sir Percival Radcliffe, the defendant says, 'I never spoke to the fellow at all.' Now, in cross-examination you would expect to find sparks of the mind of a gentleman and man of education and honour breaking out here and there. You would find a man dissemi-

fied with the story he had told. But here, if you look at the way in which in various instances something breaks out, you will, I think, be of opinion that it is very inconsistent with the character which the learned counsel for the defendant claimed for his client. When a man, speaking of a gentleman of equal rank with himself, and entitled, whatever his rank, to be spoken of in terms of respect and courtesy, because Sir Percival Radcliffe disbelieves him, and when he comes forward and charges his wife with want of chastity, denounces him as an impostor and a liar—though he never used that term—when he calls such a person ‘a fellow,’ and says he would have inflicted personal chastisement upon him were it not for the ladies, I ask you whether it is consistent with the character the learned counsel claims for him? The great point which the defendant puts forward in his own justification is that the conduct of Sir Percival Radcliffe towards his mother excited him so much that he was not answerable for what he did, nor competent to enter into conversation with the ladies.

But Sir Percival denies the defendant's version altogether. What Sir Percival says was that they went for the purpose of testing the defendant, and seeing whether, from his personal appearance and his answers to their questions, they could draw an inference satisfactory to themselves as to his being Roger Tichborne. When the defendant came into the room, which, as you know, communicated with the next room by folding doors, he left the door open, and it was perfectly possible that some one might be in the next room, and that Lady Tichborne might make her appearance, give her assistance to the defendant, and thus defeat the object they had in view. So when Sir Percival saw the door open he went and closed it, but he altogether denies that Lady Tichborne was coming into the room. The cross-examination of the defendant then proceeds:—

‘Did you tell him you had got the captain and several of the sailors who were saved with you in the *Bella*?—No, I did not. You think not?—I did not. That you had been recognized by many of your brother-officers?—No, I did not. . . . Did Mr. Radcliffe ask you to relate some of your adventures in South America?—He did, and I refused to do it. Did you give any reason?—Yes; I told him his conduct too much agitated me to speak on such subjects. Did you not tell him you were advised by your lawyers to hold your tongue on these subjects, and at a future time you would satisfy him?—I did not tell him anything of the kind.’

Well, gentlemen, this forms one of the important chapters in the history of this case. If you bring your minds to the belief that the defendant had full opportunity of distinguishing between the two cousins and of seeing their faces, and was still under the delusion that one cousin was the other, I do not know any circumstance in the case which to my mind would be more adverse to the defendant. I do not believe that Roger could, so long as memory held its own, have forgotten the lineaments of Kate Doughty, or the voice which once, when it fell upon his ears, no doubt made his whole frame thrill with emotion. Can you entertain a doubt that he retained a fond remembrance of her when separated from her by the wide ocean? You must judge between the three witnesses and the defendant.

At this time, the day after the interview, we have this letter from the defendant to Sir Talbot Constable:—

‘My dear Talbot,—With great pleasure I received your kind letter last night. I am very sorry to hear that you have been ill. I have not been very well myself for this last 10 days. I had Radcliffe and Katty and Lucy Towneley here to see me yesterday. The meeting was not so agreeable as I should have wished it, because they would not see mamma.’

Here there is no complaint of rudeness, but simply that ‘they would not see mamma.’ Then the letter proceeds:—

‘You must know how I must have felt, but what could I do? If I had not seen them they would have gone and said I was frightened to show myself, and it was my solicitor wish for me not to deny myself. I wish, my dear Talbot, you would come and spend a few days with me. My house is not very large, but we will find plenty of room for you. I expect to be able to go to Upton before long. Colonel Lushington, who lives at Tichborne, has been so kind to me that I really can't turn him out. He offered to give up the house to me the first time I went to Alresford, when every one seemed against me. But since my brother-officers have been to see me everybody seems to change. How they all want to be my friends! But I say no I don't want them. What right had they to write such things about me as they did? They reply that they were told it was not me; but they had no right to judge before they see me. They all say they are sorry for what been done. But that does not alter the impressions that those scandalous paragraphs have made on the minds of the public against me. I have already entered actions against some of them, and they do not seem to like it. I hope, my dear Talbot, to have many a good hunt with you yet. I hope you will remember me to your father, who I hope to have the pleasure of seeing before long. Of course I have seen a great many things since I have been away that we can talk of when we meet. Mamma tells me that you are now married, so we shall both have the pleasure of introducing one others wives. I must now conclude, for you know that I am not very fond of writing. Mamma is very thankful for your kind letter. I am sorry to hear that you have given up smoking. For my part I have given up buying retail, for I have to buy wholesale now. But the Doctors have put me on short allowance. They only allow me 20 a day now. But I take care to get the largest Cigars I can. This is the longest letter I have wrote these two years, so I shall now say good bye for the present.’

‘I remain, Dr Constable, yours truly,

‘R. C. D. TICHBORNE.’

Then comes a letter to Rous which, as regards spelling and grammar, is a literary curiosity; but I will not trouble you by reading it. In all these letters there are a great many mistakes of grammar and spelling which cannot fail to raise a smile. As far as I am concerned, however, it would be a kindly and good-humoured smile. You are not likely to sneer at a man who has not had the same educational advantages as yourself. You may smile at the mistakes of a man educated at a village school, but you do not sneer at him for them. The remark I have to make is this. You find many mistakes of grammar, spelling, and composition in Roger's letters; but they convey, to my mind, the idea that they are the mistakes of a man who has imperfectly learnt the language which was not the language of his childhood. But the mistakes in the defendant's letters are to be mistakes arising from an original want

education, or an education in a particularly humble sphere of life. They are mistakes arising from a totally defective and imperfect education. If you compare those letters of the defendant with the letters of Roger Tichborne, whether in point of spelling, grammar, or style and the flow of style—if the two sets of correspondence were placed in juxtaposition as having been written by the same man, you would say at once, 'It is quite impossible.' The suggestion in explanation is that the life led by the defendant in Australia during a number of years and the sort of persons with whom he associated are sufficient to account for it all—that he adopted their language, their style, and their spelling.

The result of the interview with the defendant was not the same in the mind of all the persons. Mrs. Townley was perfectly satisfied that it was not Roger Tichborne, and Sir Percival appears to have been of very much the same way of thinking. But, not having had the same intimate knowledge of Roger, never having met him but once at Mrs. Washington Hibbert's, in the beginning of 1847 or 1848, he did not think himself warranted in coming at once to a conclusion. Lady Radcliffe seems to have been unwilling to decide without some further inquiry. It struck her there was something about the voice and accent of the man which reminded her of Roger Tichborne. She says she was struck by the French sort of voice in which he spoke; but when I asked her whether she meant the voice or accent she could not say, and she added she was a bad judge of voices. Then Mr. Hawkins says, 'You heard him in court and you had a full opportunity of hearing him speak for a long time. Was his accent the same as you heard before?' Lady Radcliffe's answer is, 'No, quite different.' And she adds, 'In court at the time you mention I was convinced he was not Roger Tichborne because he knew nothing and could answer nothing. . . . There was nothing in the least like Roger Charles Tichborne when I saw him in court.' However, she did not wish after the first interview to come to any decision. And therefore Sir Percival writes the following letter to Mr. Holmes with a view to obtain another meeting with the defendant:—

'March 8.

'Dear Sir,—Mrs. Townley, Mrs. Radcliffe, and myself went down to see your client. We regret to say that we do not feel satisfied with our interview. We should require some further conversation before we could really be quite certain that he is Roger Tichborne. We tried to inspire confidence, but apparently failed. Unfortunately, the train compelled us to curtail our visit, and therefore, for all parties, it would be much more satisfactory if he could meet us at our hotel.

'J. P. RADCLIFFE.'

Next day Mr. Holmes replies:—

'London, 9th March, 1867.

'Dear Sir,—I am glad that you and Mrs. Radcliffe and Mrs. Townley saw Sir Roger Tichborne yesterday. The more he sees of his relations the sooner, I am convinced, will a satisfactory ending be put to these doubts and uncertainties. But he tells me that it was most painful to him you declining to see his mamma.'

'There again the terms of the complaint are that they declined to see his mamma.'

'I am sure that personally he will be happy to meet you.—Yours,

'JOHN HOLMES.'

The result was that an appointment was made for a meeting between the defendant, his aunt, Lady Doughty, Lady Radcliffe, and Sir Percival,

at the house of Mr. Holmes. Accordingly, Sir Percival and Mrs. Townley (but not Lady Doughty) and Mrs. and Miss Nangle went down on the day appointed. Lady Radcliffe had an engagement in town which kept her longer than she expected, and when she got to the railway station she found that the train had left, so she was not at the meeting. When they got to Mr. Holmes' house they were received by Mrs. Holmes, and Sir Percival started for the residence of the defendant in order to fetch him. Then Sir Percival tells us what passed as they were going to Mr. Holmes' house. He says the defendant tried to enter into conversation with him, and the first thing he said was, 'Have we ever met before?' Sir Percival replied, 'Why, you told me you had never met me.' Then the defendant went on to speak about Burton Constable, and said he knew Sir Percival there, at Paris, and other places. He said I gave Talbot Constable a black horse, which I bought from a farmer named Blandford. Then says Sir Percival, 'On a sudden it occurred to me that I gave a horse to Talbot Constable, and bought a horse from Blandford, but the horse I gave to Talbot Constable was not the horse I bought from the farmer, but another.' In the course of the conversation, Sir Percival told the defendant that he was going to see 'his aunt.'

Mrs. Nangle's account of what happened at the meeting is that she was sitting in a corner of the room when the defendant entered, that she got up, took up her veil, went to the window, and stood so that the light fell on her face, and then asked him whether he knew her but got no answer. Mrs. Townley says, 'He did not know my aunt, Mrs. Nangle, or Miss Nangle. She put up her face to the light and said, "Now say who I am." He appeared very much confused.' Sir Percival's account is this,—'I said first of all, "Do you know that lady?" (Mrs. Nangle), not in an offensive tone, but just as I speak now. He made no answer at all. Mrs. Nangle threw her veil up, came and stood in front of him, and said, "Do you know me now?" I do not know what he said. Miss Nangle then stood up and said, "Do you know me?" Then Mrs. Nangle said, "Speak to him in French." He seemed quite puzzled, like a person who had never seen them before.' That lively young lady, Miss Nangle, describes the scene very graphically. She says, 'When he entered the room he looked very much afraid. He looked round him, especially at my mother. My first feeling was surprise, my next a sort of uncontrollable inclination to laughter, because it was so ridiculous, five persons in the room, not saying a word, but looking at each other. Then Mr. Radcliffe came forward and in a most courteous manner said, "Do you know this lady?" The defendant said, "There are so many veils." Then Mrs. Nangle asked, "Do you know me?" He said, "I don't know, I don't know," in a frightened way. He could not make any sort of guess as to who Mrs. Nangle was. Then I went over, threw up my veil, and said, "Tell me who I am." He kept backing and said, "I don't know; I don't know." Yes, he seemed afraid of me.' She is asked, 'Were you advancing towards him?' 'Oh, no,' she replies, 'I was standing near him. My mother, in a whisper to me, said, "Speak French to him;" so I said, in French, "Do you speak French?" He said, "Oui, Madame," in a most atrocious accent. I continued to speak to him in French, but he did not answer a word. He looked frightened.' Then Mrs. Townley told him that he was an impostor. Then we were told that

he advanced in a menacing way towards Mr. Radcliffe, but as Mr. Radcliffe remained quiet the defendant did not strike him. The defendant's account of the matter is this:—

'I was told by Mr. Radcliffe when I was going there that I was going to see Lady Doughty and my cousin Katharine. When I got there I found a person crouched down in the chair, trying to make herself as low as she could, and very thickly veiled. Mr. Radcliffe said, "Who is the person in the chair?" I said, "How can I tell when I cannot see her face?" She raised her veil at my request, and I said, "How dare you tell me that I came here to meet Kate Doughty?" I never looked at the person at all, but got very angry. I never looked at Miss Nangle at all. If you ask me whether it was my Aunt Nangle I do not know. I cannot speak as to Miss Nangle, for I did not take notice of her, seeing it was not my Cousin Katharine, though, of course, she is my Cousin Katharine, but not the other Miss Doughty as represented.'

Then he is asked, 'You say you said it was Mrs. Nangle?—I have heard so since. When she put up her veil, did you then see it was your Aunt Nangle?—No I did not, and I tell you I did not know who it was, for when I saw I was imposed on I never looked. You must have looked to know it was not Lady Doughty?—Certainly. Did you look to see who it was?—No. Was she at all like a person you had seen?—I tell you I do not know. You say you did not pay attention to Miss Nangle?—No, I did not.'

The result is that the defendant admits that he did not recognize Mrs. Nangle, but he accounts for it by saying that he expected to see Lady Doughty. Whether this was a stratagem or not on Sir Percival's part I do not know, but it is quite certain that having taken Mrs. Nangle to Mrs. Holmes's instead of Lady Doughty, whom the defendant expected to see, Sir Percival did not deceive him. Sir Percival says, 'I told him he was going to see his aunt. I purposely omitted the name of Lady Doughty. I am quite positive I purposely said "his aunt" without giving the name.' The defendant, on the other hand, says, 'He told me distinctly I was going to see Lady Doughty.' I must say, it would have been better if there had been no concealment about the matter at all. If it was a stratagem, my observation is so much the stronger: Not that it was necessary to tell him who his aunt was. It would have been quite sufficient if Sir Percival had said, 'Lady Doughty cannot come down; but I have brought another lady, and when you see her you can tell me who she is. If you tell me, it will be satisfactory. If you don't, it will have the opposite effect.' I confess I have a dislike of stratagems of this kind. But still the question arises, should he have known Mrs. Nangle, for she was his aunt by blood, and Lady Doughty was his aunt by marriage? He had known Mrs. Nangle before he knew Lady Doughty. He knew her in Paris, and he saw her as often, and, therefore, was as familiar with her personal appearance as with that of Lady Doughty.

Sir Percival sends an account of the impression made on the minds of himself and his party by this meeting in the following letter to Mr. Holmes:—

12th March, 1867.

'Dear Sir,—We had an interview with your client, and are all thoroughly convinced that he is not Roger Tichborne, and this not only be-

cause we failed to recognize him as Roger Tichborne, but because he evidently did not recognize his nearest relations.—Yours, &c.,

J. P. RADCLIFFE.'

Mr. Holmes in reply writes this strong letter:—

13th March, 1867.

'Dear Sir,—The way in which you and the three ladies who were with you yesterday behaved for the very few moments Sir Roger Tichborne condescended to see you was an entire breach of the arrangement. My wife was surprised that neither of the ladies favoured her with their names.—Yours,

J. HOLMES.'

It is to be regretted that this interview was not held according to the strictest rules of regularity, and also that Mr. Holmes, from the beginning, should have declined to be present at it. It would have been much better for the defendant if he had a person with him who could support or contradict the account he has given of the interview. Perhaps the defendant thought he was not as fairly dealt with as he ought to have been. In the early part of the same month the defendant wrote the following letter to Mr. Hopkins:—

March 3, 1867.

'My dear Friend Hopkins,—I received your letter the other day. I should have answered it before if I had not been so ill. I got out a little while yesterday for the first time since Thursday, but to-day it snowing so hard that I cannot go out at all. I hope I shall soon be able to come down, as I feel almost dead shut up in the House so long. I received a letter from Bulpit and Hall this morning telling me he had placed five hundred to my credit at Alresford this very much surprise me as I did not expect or want it. But I suppose by that the Winchesters are beginning to feel uncomfortable. I hope you will forgive me for not writing oftener. I have not forgot the Vermont for Mrs. Hopkins. I will bring it down with me when I come remember me kindly to Mrs. Hopkins. I hope she enjoying good health. Mamma begs to be remembered. I think Mamma will come down to Winchester soon. McOann, my old valet, has been with me this day, he is going home to-morrow. There are several of my brother officers are to call on me this week. Carter, my old groom, got discharged for coming to see me so I employed him myself again. He got a letter yesterday when in London praying that he should not have anything to do with me, has so many would be ruined by it. Carter says he told them that if they where all to be hung he would not tell a lie for them.

'I hope my dear friend to soon have the pleasure of seeing you,

truly yours

R. C. D. TICHBORNE.'

And now comes a letter in the month of April which is certainly of very great importance, because it may furnish us with a clue to some of the knowledge exhibited by the defendant with regard to important circumstances in Roger Tichborne's career. On the 20th of April he writes:—

'My dear Mamma,—I have seen the Doctor. He says I am a great deal better. I hope my dear mamma you have found some of the letters.'

What letters was he hoping his mother should find some of? There were many letters, as you know, written by Roger with reference to things which happened to him in his excursions and wanderings in South America, and upon this subject the defendant always exhibited a considerable amount of knowledge. Was that know-

found in those letters or was it derived from his own memory? No explanation is given of it. The defendant's mouth is shut on the subject, so we must not press it against him. But there were some letters at this time in the month of April, when he was about to take the initiatory steps in his litigation which the defendant desired that his mother should find; of course, that he might have the opportunity of seeing their contents. Here is a letter to Lady Tichborne, of which I shall read a portion:—

'Essex-lodge, 29th April.

'My dear Mama,—I have sent Carter up to London, as he will call and leave you this note. I have sent both horses to be sold. My reason for doing so is if known they would be seized for Cubitt's bill. The sheriff's officer was down here on Saturday night late. They thought the house and furniture belonged to me. I sent for Mr. Holmes, and he came and sent them away. He showed them the receipt you received from Miss Laurance. When they had seen the receipt was in your name they went away. . . . You see mama dear if I hire horses when I want them they can't take them away. I hope my dear mama you are better than you were. I am a great deal better now that it busted. I am my dear mama your affectionate son, R. C. D. TICHBORNE.'

Now in 16 lines of this letter we have no fewer than 10 mistakes, and the occurrence of the 'Dear Mama' no less than six times. This repetition of 'Dear Mama' is highly characteristic of the defendant, and the entire absence is no less characteristic of the letters of Roger Tichborne. He always says 'My dear Mother.' Some persons introduce 'My dear Father' or 'My dear Mother' occasionally in the course of a letter, but Roger never does.

The learned counsel for the defendant turns to the letters of his cousin Miss Doughty, and shows that Roger introduces some similar expressions of affection several times in the course of his letters to her. But then it must be said that his feelings were very much interested in that case. But in his letters to his mother nothing of the kind occurs. But here in 17 lines there are no fewer than seven 'mamas,' and you may take it that the number of 'dear mamas' is about one to every three lines. This letter is from the defendant to the Dowager Lady Tichborne:—

'May 11, 1867.

'My dear Mama,—I did not write because I was not very well, and could not spare Carter. I am sorry to say, mama, that Mary is very unwell to-day. . . . I saw Mr. Holmes last night; he says he will be ready to file bills on Tuesday. But he wants 500*l.* before he can file them. I have got about 30*l.*, mama dear, but that you see, mama dear, is not sufficient. . . . Next Tuesday is Mary's Birthday, and Mr. Lang Father is coming to dine with us, so do try and come, Mama dear. You know, Mama dear, it of great importance that these gentlemen come to see me. Because it gets all over Hampshire. Hoping to receive a few lines from you, I remain your affectionate son.

'R. C. D. TICHBORNE.'

On the 22nd of May he writes the following letter:—

*'2, Wellesley-villas, Wellesley-road,
'May 22, 1867.*

'My dear Mama,—I spoke to Mr. Holmes about you going to call on him to-day. And he says he will not be at home. This is the Derby day, and they have all gone to the races. It was

very kind of you to send me the oranges and the sparrowgrass. Mary and the baby pass a very good night, and are quite well, as also little Agnes, seems to be very fond of the baby, as she cries to go and see it every time she goes upstairs. I received a letter from Talbot constable yesterday. I hope he does not come until I am well, it makes me so ill to be talking so much. I am not very well to day, so I am keeping my bed, and I do not intend to get up, the Dr. as not been to day yet. He told me yesterday to go to bed and put a politice on. But I did not put it on until last night when I went to bed, so I think that make me worse to day. But I will soon be all right, Mama dear. It only a little inflamed and will soon go away if I keep quite. Will you, my dear Mama, answer talbot letter for me. I don't lick the way he writes. I think he been tampered with by the other parties. We must be very careful, my dear Mama, now my Case is so strong. If he was to come up to be God-father to my son and then say he did not know me it would injure my case very much. I will leave all to you, my dear Mama, only be careful. Mary and little Agnes join me, my dear Mama, in kind love to you.

'Your affectionate son,

'R. C. D. TICHBORNE.'

'Lady James Tichborne.'

On the 27th he writes as follows:—

'27 May, 1867.

'My dear Mama,—I think it will be best to give Mr. Tucker the 50 per cent, on condition that he pays the money the day after the bill will be filed. . . . I must get some ware (*sic*) for I have not a pound in the world. I am sorry that I shall cause you so much anxiety about my affair. Had I have known it (*sic*) before I left Australia I would have never wrote or come home to cause you so much trouble, and to have been such a drag on your purse; however I hope to be able to repay you all back again and see you happy and comfortable at Upton. I registere*d* (*sic*) the boy this morning under the name of Roger Joseph Doughty according as I think you desired it. And I remain, my dear Mama, your affectionate son,

'R. C. D. TICHBORNE.'

On the 31st of May, 1867, he wrote as follows:—

'My dear Mama,—You will think it very strange that I did not write to you yesterday, but I gave Bogle and Carter leave to go and see the races, and several persons called, that the day passed away before I knew it was gone. My dear Mama, Mr. Tucker called to see me last night, but did not stay long. He was saying that he was coming down on Saturday with you to have baby christened. You must remember, my dear Mama, that Mr. Tucker is a Protestant, and cannot be a sponsor. Besides, my dear Mama, he is not so respectable as I should wish, and another think, my dear Mama, it would be wrong to make Talbot godfather until I see him, suppose when he came he did not remember me, and I know Radcliffe has been continually writing to him about me. Had you told him that that Mr. Radcliffe had been continually writing to you about him. No. It would be very serious and injure my case very much. My dear mama, the case is settled, so do not worrur yourself about that. I hope, mama dear, you will come on Saturday to see me, although I should like to leave the christening for some time yet. There is nothing to fear, as they are both so healthy. Mr. Baigent is here and I am so glad, as I was so lonely before; he beg to be remembered to you, my dear mama. Do not forget to let me know who that Captain

Barstow was. Mary and Baby and little Agnes are quite well, and joins me in love to you, my dear mama, I have not said anything to Mary about the christening, but I have very strong reasons for not having it done on Saturday, which I cannot commit to paper, But wh I will tell you all about when we are alone. God bless you, my dear mama.

'From yr affectionate Son,
R. C. D. TICHBORNE.'

The next month, June, begins with a letter on the 2nd to Lady Tichborne, in which the defendant acknowledges the receipt of a cheque for 18*l*. He refers to the book on Paris, written by some fellow who thinks nobody has been there but him, and advises her not to be at the trouble of reading it. On June 12th he says he expects to be in London next day, and if so will call upon her. He refers to Captain Lichfield having called the day before, and mentions the annoyance of the captain because he would not see him, and he intimates that there were others waiting outside, including Mr. Bowker. Some inquiry was made as to who he could have meant by Captain Lichfield, and one idea was that Captain Strickland, a naval officer, was meant. Now, if this was Captain Strickland, it is a curious thing that the defendant should write of him as Captain Lichfield. On the 27th of June the defendant addresses the following letter to Lady Tichborne:—

'My dear Mamma,—I arrived quite safe back again, as I hope you did; when I got here I seen Mr. Holmes, he has seen Mr. Norris and Tucker today. I believe the matter remains much about the same. I tell you what I wish you to do. my dear Mamma that is, has Guardian to Roger Joseph, to engage Mr. Norris for him in this suit for Thursday, and if Mr. Norris declines let me know at Rous. Swan Inn. Alresford. Of course I will pay all expences. Mr. Bulpett was in town today and seen Mr. Holmes and sent me a letter to say that on Monday he will place fifty pound to my credit. I have told Mary to send your letter on to me. and have left a anvelope address to myself for that purpose. I am obliged to start from here by the ten o'clock train as there is no other train from Waterloo station that calls at Farnbrough but the eleven o'clock train. I will write to you on Saturday night so that you get it on Monday morning, and be sure to write me in return. It is not necessary for me to come back on Wednesday, so most likely I shall stop for some time. Be very careful what you say, my dear Mamma. Now that the Bill is filed to any body that calls on you. Mary and Roger are quite well, as I hope, my dear Mama, yourself and dear little Agnes is. The people at Victoria station showed me great attention tonight when I went back. God Bless you, my dear Mama, and dear little Agnes.—Ever your affectionate son,

'R. C. D. TICHBORNE.'

After writing this letter the defendant went down again to Alresford, and on this occasion began one of those 'progresses'—as I may almost term them—which he from this time made in those parts of the country where there were any Carabineers to be found. At Sandhurst there were several old Carabineers, and among them one Cairns, a very intelligent man, whose assistance seems to have been obtained by the defendant and used on one or two important occasions. Carter was at this time in the defendant's service as a groom, and McCann, who had formerly acted as Roger Tichborne's military servant for a considerable time, was also taken into the service of

the defendant for nothing at all—he was an old man, quite worn out, and he died not long ago. Of course he could give the defendant very important information. Now, Carter was sent to Sandhurst and supplied with money, and no doubt those men who were at Sandhurst were prepared by Carter for the reception of the defendant. Well, the defendant goes down to Sandhurst, and is acknowledged by these men. On the 30th of June the defendant writes to Lady Tichborne as follows:—

'Swan Hotel, Alresford, Hants, June 30, 1867.

'My dear Mamma,—We arrived here quite safe last night after having been at Sandhurst, where we have been very successful in getting more witness, having met Sargt. Cairns and his wife, who knew me directly they seen me. I have only seen Mr. Hopkins and Dr. Lipcombe at present. to-day being Sunday I am having a rest. I received your letter this morning with the Cheque for ten pound. Of cause, my dear Mama, you have no need to send me the Cheque for twenty this week, as I will pay the Bills out of what money I got. Mr. and Mrs. Hopkins begs to be kindly remembered, has also the Dr. To-morrow is to be our busy day. We have six person coming from Sandhurst who I seen yesterday and about thirty that live in this neighbourhood. I hope, my dear Mama, you will write and let me know how you are and dear little Agnes. I think I shall stay down here for two or three months. I am going to meet Captain Haywood, to-morrow one of my Brothers officers. He staying here with Mr. Sumnor and he is going to call on me to-morrow morning. I will let you know the result of the interview to-morrow night. Colonel Lushington has come back. But I have not seen him yet. But I shall to-morrow. dont forget to write, my dear Mama, as I am very anxious to hear from you. It a lovely day here. The Sun is so warm and beautiful. I have no more. to say at present, my dear Mama, except to thank you for your letter and the Cheque.

'ever your affectionate son,
'R. C. D. TICHBORNE.'

There is a reference in this last letter to the defendant being about to see a brother officer of the Carabineers, who at this time became Major Heywood, and a somewhat strange proceeding was taken. Major Heywood was staying somewhere in the neighbourhood, and it was desirable that he should see the Claimant, and if possible identify him, as his former brother-officer. Of course it was desirable that Major Heywood should pronounce an opinion for himself without a bias being produced by any foregone conclusion. But this Sergeant-Major Cairns, an intelligent, quick fellow, who knew all about the regiment, and who was therefore a useful auxiliary, was fetched from Sandhurst by Rous at the instance of Mr. Holmes, and placed in such a position at Alresford as to have an opportunity of talking to Major Heywood before he saw the defendant. Cairns was afterwards used for a similar purpose with regard to another officer who was called as a witness—Major Norbury. In cross-examination Cairns is asked:—

'Did the defendant ask you to assist in looking up the military witnesses?—No. Nothing of the kind passed between you?—Nothing. Have you been asked, or have you not?—Yes, Mr. Holmes asked me. Before I ask you about Mr. Holmes let me ask you, did you go to Alresford?—Yes. You had seen him and recognised him at Swan
L

hurst?—Yes. Then why did you go to Alresford?—Mr. Bouse came for me. Mr. Holmes sent him. What for?—To see Major Heywood. You were a witness at the last trial?—Yes. What was said to you about examining Major Heywood?—I said I should like to see him on account of his having been captain in my troop. What did you send to him for?—Because I wanted to see him on account of his being my old officer. I want to know what was passing in your mind at that time?—Nothing. When did you see Mr. Holmes?—On the 29th of June. How long was it since you had seen Major Heywood before?—Seven or eight years. Mr. Holmes told me to call upon him.

Rous is sent to fetch him from Sandhurst, and he goes to Alresford in consequence, as he says, of his having expressed a desire to see an officer whom he had formerly known in the regiment. I don't mean to say that he did not express such a desire, but inasmuch as he did not say anything to Major Heywood on his own account, and as his whole conversation had reference to Roger Tichborne, I interpret his meaning to be that when he was told that Major Heywood was going to see the defendant he said 'Let me see Major Heywood first.' Then he is asked:—

'Did you ask Major Heywood if he remembered the twitching of the eyes?—I don't remember, but I think not. I will not say if I mentioned it or not. Did you tell the Major how it was you had recognised him?—I think not. How long were you with him?—We walked up the street together for 100 yards, and then I came back with him to the Swan.'

It is obvious that he had nothing to say to the Major on his own account, for he talked about nobody but Roger Tichborne, and was no doubt preparing the Major's mind for seeing the defendant. Being at Alresford, and having before, as he says, recognised the defendant, he is asked whether he had any conversation after this with the defendant. He says he had, and the defendant asked him about officers and men, and several things in the regiment. What, gentleman, was the purpose of this conversation as to persons who had been officers and soldiers in the regiment? Was it to enable the defendant to obtain knowledge of matters which he, if he were Roger Tichborne, had forgotten, or which he, if he be not Roger, had no means of knowing? Then there is a letter of the 2nd of July to the Dowager Lady Tichborne:—

'2 July, 67, Swan Hotel, Alresford, Hants.'

'My dear mama,—I read your kind letter this morning, and I am delighted to hear Mr. Norris is going to act for my son. We have succeeded first class since we been here, and met Major Haywood here yesterday. He called upon me and Mr. Sumner, the Bishop of Winchester's son. He was one of my brother officers, but he recognised me at once, and made an affidavit at once. I likewise was very successful at Sandhurst, has I met there who I had not seen before. I had them all down here, and they had their military clothes on, and I think they thought I was going going to take the town. I hope, my dear mama, that you and Agnes are quite well. You will see Mr. Holmes. I have told him to call upon you, but will write again to-morrow. I have seen Mr. Stubbs, who remembered me perfectly well, and begs kindly to be remembered to you, and also to Mr. Hopkins, and to several others more. I am going again to Mr. Gilbert Onslow at Tichborne at four o'clock this afternoon and Mr. Shelly.

Mr. Benson called yesterday and left his card. Mr. Bishop and Mr. Long called yesterday. Col. Lushington and Mr. Brodie, and several other persons. Mrs. Bulpitt has just called, so I must say goodbye, my dear mama, for present.

'Ever your affectionate son,

'ROGER C. D. TICHBORNE.'

The 'Mr. Gilbert Onslow' mentioned in this letter is obviously meant for Mr. Guilford Onslow. In a letter written on the 4th of July the defendant says:—'It cost me very near all my 50*l.* at Alresford this trip.' How could he have spent 50*l.* during a stay of only two or three days at an hotel? Unless he expended money in treating persons for giving or obtaining information in his favour. I cannot see how a stay of a few days at the Swan should cost him 50*l.* There was a letter, gentleman, written by the defendant after the interview with Mr. Danby Seymour, and in it the name of Mr. Seymour was spelt 'Seymore.' There are also two letters from the defendant to Lady Tichborne, dated respectively February 12 and February 15. One of them is in the following terms:—

'Alresford, Feb. 12, 1867.'

'My dear Mamma,—I received this morning the letter you sent to Mr. Holmes, and I am very sorry to hear the sea is so rough, has I know you cannot be comfortable where you are. I am staying a few days with Mr. Hopkins, who has been very kind to me, has also Mr. Baigent, my dear Mamma it no use for any of them to deny me now has I have seen so many that know me. Mr. Stubbs and Mr. Huggins called on me yesterday and remembered me well has also Col. Lushington, of course he did not know me before but he was so convince by some questions he ask me that they rung the Tichborne bells yesterday in honour of my arrival. I forgot to mention that himself and Mrs. Lushington lunches with us to-day. I have wrote to uncle Seymore, as also Mr. Hopkins, but we have not received an answer yet, but praps he will come here to-day. I should have wrote before, my dear Mamma but I have expected you in England every day. I shall leave here to-morrow night for Croydon, so has to come and meet you. Gosford came here on last Saturday. He did not know I was here. he says he came to see Mr. Hopkins, but Mr. H. would ave him because he wrote such a lot of falsehoods to him about me. Gosford is quite willing to believe I am myself now has he has told a great many people about here that he must have been mistaken. He pretends to be very angry with Cullington for writing what he did to my friend hopkins, and say he did not ortherise him to do so. He came here on account of some very severe letters Mr. Hopkins wrote to Cullington about his Conduct to me, but Mr. Hopkins refuse to see him on account of his Blackard Conduct to me. He left he to go home again, but came to Tichborne Chaple from Winchester on Sunday, thinking he would see me, but I did not go. Cousin Katty would very much like to see me, but Col. W. will not let her come he is afraid she will be called on has a witness. It does not matter has I have a hundred witness here, if I want them. I hope my dear Mamma you are better in health than you where. I shall come and meet you, as soon as I get back, if you have not arrived. I have a great many things to tell you when I see you. Dr. Coner has just be in to see me again. he is very kind, and, in fact, so are all the people about here.

'Hoping, my dear Mamma, soon to be with you

and enjoy many happy days in your company; I remain, my dear Mamma, your affectionate son,
'ROGER C. D. TICHBORNE.'

'the name of the house at Croydon is Essex Lodge, Thornton Heath.

'Dowager Lady Tichborne, Hotel Desain, Calais, France.'

To my mind the most important part of these letters is that in both he spells the name of Seymour 'Seymore.' Roger Tichborne knew how to write that name just as well as his own, and this is therefore a most formidable point in the case. The learned counsel for the defendant said that in the reign of Charles I. a member of this same family took it into his head to sign his name Seymore, and did so sign it, as if that could in any degree affect this case. Roger Tichborne had read a little history, but his researches were not so recondite as those of the learned counsel, and he would hardly know anything of this Seymour in the reign of Charles I. signing his name in this eccentric manner.

It was about this time that that remarkable correspondence arose between the defendant and Captain Polhill Turner. The defendant had a circular drawn up. It was prepared, no doubt, in the attorney's office, and although addressed to various officers it is evidently a circular. This is the form of it:—

'5th July, 1867.

'My dear Polhill,—No doubt you have seen in the papers of my return to England after long absence. I intend to see all my old brother officers. Will it be convenient for you to see me if I call upon you some day next week? If so, I will do myself the pleasure of making a journey for the purpose.—Yours faithfully,

'R. C. D. TICHBORNE.'

Captain Polhill Turner, who resided near Bedford, thereupon invites him to lunch with him. On the 9th of July the defendant writes:—

'Dear Polhill,—I have much pleasure in accepting your kind invitation for Wednesday next. Thanks for your letter. You will find me much stouter than I was in the Carabineers.—Yours faithfully,

'R. C. D. TICHBORNE.'

Instead, however, of going down, he sends this telegram:—

'I am suddenly obliged to go into Hampshire this morning, to see most important witnesses who are going away. Excuse, therefore for not being with you to-day as arranged. I will write to you by this post.'

He accordingly writes to him on the 10th of July,—

'Dear Polhill,—I intended doing myself the pleasure of calling on you to day, but my solicitor found it necessary I should start for Hampshire to see some friends who were about taking a journey, and it is very important to my case that I should see them. I hope it will not be long before Tichborne and yourself meet.—Yours truly,

'R. C. D. TICHBORNE.'

However, it appears from another letter that the acceptance of the invitation was altogether delusive, and that he did not intend to go to lunch with Captain Polhill Turner at all. Captain Turner, I may remark, had been captain of the troop to which Roger Tichborne was transferred, and, therefore, he would be a very likely person to recognize him. On the 10th of July he writes to Lady Tichborne:—

'My dear Mamma,—I saw Mr. Holmes has soon as I got back from the station. I told him I did not intend to go to lunch with Polhill, at Bedford,

at all. I told him what I thought, and he was quite satisfied. He had received a letter from Alnford saying Mr. and Mrs. Marks were about leaving for Spithead, and wished to see me again, as it was necessary before signing their affidavids so I start by the 11.40 train from Waterloo. I shall only be away a few days. I am going to write to Mr. Scott and the two Miss Onslows, as I wish to get their affidavits before I come back. I told you I would not go to Bedford, and I am not going to. I hope, my dear mamma, you will write and let me know what is going on. I will call on Mr. Norris. Agnes, Roger Joseph, and Mary are quite well, and joins me in love to you, my dear mamma. I hope Joseph comes before I start, but I write this in case not. God bless you my dear mamma. Mr. Leith called before bed-time, and stayed a few minutes. He wish to be remembered to you.

'Your very very affectionate son,

'R. C. D. TICHBORNE.'

This letter is read to the defendant in his cross-examination, and he is asked why he had accepted the invitation, when it is apparent he did not intend to go. His answer is—'My mother did not wish me to do it. I think she had an objection to my going.' He says when he wrote the letter he intended to go to visit Captain Polhill-Turner but subsequently he made an excuse by saying that he wanted to go to Hampshire. When questioned about it long afterwards the defendant says he might have had some reason for it at the time, but that at so long a distance of time he cannot explain it.

Now, we come to the end of July, when it was necessary for the defendant to take his initiator's steps in this legislation. The first step was an application to the Court of Chancery, and it became necessary to file an affidavit stating the particulars connected with himself from the time of Roger Tichborne's leaving England till the time of the defendant's return. Accordingly, he stated those facts shortly in an affidavit. On his filing this affidavit the opposite party were entitled to cross-examine upon it, and Mr. Rouse was appointed to take the evidence. And here the question presents itself, What were the sources of information which the defendant was at that time possessed of to enable him, independently of his own mind and memory, to answer the questions which were put to him? As one view of this case is that he is not Roger Tichborne, we have to see whether we can explain and account for the knowledge which, if he be not Roger, he would ostensibly, and only ostensibly, possess.

Lady Tichborne had been living with him for some time, and although she had now left Croydon, he was in constant communication with her. Now it would be quite inconsistent, I think with truth and justice, and certainly with the views I have already expressed, to suggest that Lady Tichborne would have lent herself to what she believed to be a fraud. But she started with assuming and believing that any ignorance or Claimant might possibly display was not to be put down against him, because she believed that his memory had become impaired; that his brain had become more or less disordered by all he had gone through; and that, when he could not state this, which Roger Tichborne might have been expected to state, it was to be ascribed to the loss of memory, and when he stated things which Roger Tichborne could not have stated, it was put down to the disordered state of his mind. Well, that being so, she would naturally

help him, and instead of being startled by inconsistencies and contradictions, which would have startled anybody else, she came to his assistance.

Besides that, he had several other sources from which he might derive information. He had brought Bogle over with him, who knew everything that had happened in the Tichborne family. Again, there was Mr. Baigent, who had become the defendant's active ally, and who apparently was not particularly scrupulous as to the means to be used for promoting his claim. For this was the gentleman who went about the country taking notes of what the Carabineers and other people who were brought into the presence of the defendant had said, and then comparing them together and issuing these affidavits so as to prepare the minds of witnesses for accepting the defendant as the true man. And that is not all by any means, for we find that the statements taken from the lips of different witnesses, and afterwards moulded in the form of affidavits, were in several instances most materially expanded, enlarged, and improved under the skilful manipulation of Mr. Baigent. Well, no one knew more about the family than Mr. Baigent, who had been engaged in writing a history of Hampshire, and who was by profession an antiquarian and archaeologist. Then there was M'Cann, whom he took into his establishment—I won't say into his service—and who could give him information about the military life of Roger Tichborne of the utmost importance. Carter and M'Cann knew all about his military life. Carter had been in Roger Tichborne's service, and virtually in his regiment, for the whole period of Roger Tichborne's life in England. These three persons—Carter, Bogle, and M'Cann—were persons whom it was not necessary for him to take into his service, and he must have known, if the matter ever came to trial, they would be called as witnesses.

It is a most improper thing, when you are going to call a man as a witness, not to leave him independent of you as far as possible. I don't mean to say if a man is your servant that you are to discharge him if you want him to become a witness; but when persons come forward in your behalf as witnesses, the last thing you should think of doing is to take those persons into your house and make them dependent upon your bounty. The defendant may not possibly have been aware of the fact that it would be likely to prejudice him hereafter, but how Mr. Holmes could have passed the fact over I don't know. Mr. Holmes ought to have said to him, 'Don't do that on any account, because it will be said that you have taken them into your establishment for the purpose of obtaining information from them.' I don't know whether Mr. Holmes had his reasons for not advising his client against taking so objectionable a course. You will see whether those people were not made valuable for his purpose; but don't let it be supposed that I mean to say that Carter, M'Cann, or Bogle were leagued with him in a conspiracy—that is to say, if it shall appear to you that he has committed fraud. It is wholly unnecessary to believe anything of the kind. But yet they might very easily be made available for his purpose, if his purpose was a dishonest one; because clever men would not have the slightest difficulty in extracting from these people in the course of an apparently casual conversation any information that they possessed. It would be the easiest thing in the world, and the men from whom the information would be obtained be perfectly unconscious of their being made tools of.

Now, besides the persons I have mentioned,

there is another, Miss Braine, who not only comes forward very willingly as a witness for the defendant, but who had been staying in his house for months at a time. Miss Braine is a singularly intelligent person, who in the course of the 12 months she spent at Tichborne with the Doughty family you may depend upon it acquired a great deal of information about the Doughty family and the Tichborne family. You will have to consider by-and-by when we come to her evidence whether the course she pursued does not fairly lead to the conclusion that she may have afforded to the defendant such information and assistance as she thought he required.

Passing by the persons by whom the defendant was surrounded, let us see what documentary evidence he possessed. There was the life of Roger Tichborne at Paris. About that there were no documents which the defendant could obtain. Then there was the life of Roger Tichborne at Stonyhurst. Does he do anything to prepare himself for that? Well, his attorney takes very good care to get a list of the Jesuit Fathers who were at Stonyhurst in Roger's time, so that if any questions are asked about them it may be forthcoming as a source of information. Did that list come into the hands of the defendant? Well, there was a tremendous struggle upon that point in the defendant's cross-examination. The defendant positively denied having ever seen it. He denied all knowledge of its having been supplied. I should here remind you that Mr. Anthony Norris was Lady Tichborne's solicitor. The defendant is asked:—

'Do you mean to swear that Mr. Holmes, your attorney, did not send to Mr. Norris, the Dowager's attorney, a list of the Jesuit fathers?—That is a great scandal on Mr. Norris and a great imputation on Mr. Holmes. If such a thing had existed, I did not think Mr. Holmes would have allowed me to see it. Do you mean to swear that you never read it?—Do you think if I had had such a paper as you are speaking of, I should go a fortnight afterwards to be examined and know nothing about it?—Will you swear you did not see it?—I will not swear, but if I did I have no knowledge of it.'

The defendant is much pressed on this point, and after a while Mr. Serjeant Ballantine admits that Mr. Holmes did get this list from Mr. Norris, and the defendant is further pressed as to whether he had not read it before his examination by Mr. Roupell. He persists in saying that he does not know what has become of it and has no remembrance of having seen it. It appeared, however, that this list of the Jesuit fathers did reach the hands of the defendant and we must suppose that it was not procured without some purpose. Whether he made use of it is a totally different matter, but it must have been obtained either for refreshing his memory, if he were really Roger Tichborne, or, if he were not, for supplying to him information which he had never before possessed. So much for Stonyhurst.

As regards Roger's life in the Army, papers were procured—which fact was, of course, unknown to the various officers and soldiers—from the Horse Guards, at the instance of the defendant, one giving an account of all matters connected with the service of Roger Tichborne individually; and a second and more elaborate one, with details and particulars relating to the movements of the regiment during the time it was in Ireland and afterwards at Canterbury. These documents mentioned the names of officers, the places where the regiment

was stationed, and various other particulars. Of course, if a man studied these papers they would afford a rich mine of information of which to make use, and when he met one of the officers or soldiers he might then be possessed of a number of details which would be very valuable. It is not absolutely necessary, however, because these papers were obtained by the defendant's advisers, to come to the conclusion that this was done dishonestly, and because he was not Sir Roger Tichborne. It does not prove that the possession of these papers necessarily implied dishonesty. Some of us who might be going to be examined in a court of justice respecting events that happened long ago might wish to refresh our memories as to certain points, and if we had kept diaries we should seek to renew our recollection so that we might be able to give satisfactory answers. I can quite understand that a man might get such documents for the purpose of using them quite honestly and legitimately. At the same time, such information might be used dishonestly, not for the purpose of recalling forgotten events, but in order to supply knowledge which had never been possessed.

Besides these papers, there were the letters of Roger Tichborne to his father and mother, many of which have been kept and produced before us, and which give a copious account of Roger's proceedings, and there are also the letters to Lady Doughty; and the defendant has stated in another part of the cross-examination that he sent a copy of his journal—the same which he sent to Mrs. Seymour—to his mother. Now, where is that extract? Lady Tichborne would have been quite as likely to keep that as any of the other letters he sent from South America—in fact, more likely, because it contained all the details. Lady Tichborne died on the 12th of March, 1868, and, by a subsequent order of the Court of Chancery, the defendant gave up the papers and documents which were in his possession until the issue was determined. All the papers and documents were in his possession from the time of Lady Tichborne's death up till June, when they were deposited in the Court of Chancery: and during that time he had the opportunity of reading the letters. It is probable that he did read them—I don't say that he did; I only say that he had the opportunity. Again, it is certain that Roger Tichborne kept a diary. Mr. Gosford, in whose office Roger used to sit and read and write, says he knew he kept a diary because he had repeatedly heard him say, referring to circumstances which had occurred, 'I

will put that down in my diary.' Lady Radcliffe is asked whether he kept a journal, and she said she knew he did, because she had frequently heard him say, 'I will enter that in my diary;' and then she had in her possession a scrap of paper, in the undoubted writing of Roger Tichborne, on which he had written, 'I must try to enter that in my journal,' which conclusively proves that he kept a diary. Now, the defendant agrees that Roger Tichborne did keep a diary, for in his cross-examination he was asked:—

'We heard that latterly you kept a diary?—You heard I kept a diary: where? You mentioned that in South America you kept a diary? Yes, very likely. I want to know when you began to keep a diary?—I think the diary I spoke of was in my last trip to South America, but I did keep a diary previous to that. When did it begin?—That is hard, but I dare say I can. Did you keep one at Stonyhurst?—No, I do not think so. Are you sure?—No, I am not sure. I believe towards the latter part I did. Then did you keep it intermittingly, and then in 1852 begin to keep it regularly?—Yes. And what did you do with your diaries?—I am sure I do not know what became of them. Did you leave them behind when you went away?—I do not know. I have not the slightest idea what became of them.'

Afterwards he said the books in which the diary was kept were not left with Lady Tichborne, but stated that, to the best of his belief, they were left with Mr. Gosford, who, however, denies that they were ever left with him at all. The question is, what became of them? It is extremely unlikely that he took them with him to South America; and if he did not he would in all probability leave them in the care of his parents, who would naturally preserve them as memorials of their son. If these documents came into the possession of Lady Tichborne after her husband's death, there is nothing irrational in supposing that they found their way into the hands of the defendant. If, gentlemen, you think this is likely to have happened, you will find in the circumstance a solution of more than one difficulty over which at the present moment a mystery hangs, and which we have not, through the evidence, the means of explaining and throwing light upon. After all, however, this is only a possibility, and I cannot say the conclusion is one at which you must necessarily arrive. I only submit the possibility to your consideration as being capable of affording a solution of many difficulties in this case.

ELEVENTH DAY. *Friday, February 13, 1874.*

Gentlemen of the Jury,—I mentioned to you yesterday the different sources of information from which it occurred to me as possible that the defendant had obtained some assistance. Whether he did use those opportunities for the purpose of preparing for his examination in Court, whether he had recourse to such information, is of course matter of speculation. He himself denies that he had made any preparation for his examination, but then he is met by his letter of the 28th of July, which would lead to a different conclusion. He says:—

'July 28, 1867.

'My dear Mamma,—I was surprised to hear that you was at Mr. Norris's. If I had known it I should have been there to (sic). I shall be in London all day to-morrow preparing for my examination on Tuesday; so I am afraid, my dear Mamma, I shall not see you until Wednesday. It

appears that Elizabeth (sic) did not write the letter as May says. But I have letter and she wrote me to you, so we can compare them and see the childrens are all quite well as I hope my dear Mamma you are.—Your affectionate son,

'R. C. D. TICHBORNE.'

The spelling of 'Elizabeth' is remarkable. He spells it in the same way in the blank he himself filled in in his affidavit, and it will not be an unimportant fact for your consideration when we come to the Arthur Orton case, which we are now fast approaching.

Well, he was cross-examined at the Law Institution. At this stage I do not intend to go into the answer he gave on that occasion, because all that will more properly find a place when we come to that part of the inquiry which relates to the tests applied to the defendant to try his knowledge or ignorance of the life of Roger Tichborne.

His cross-examination was held on the 30th and 31st of July, 1867, when he presented himself for the first time in public, and it was the first time the members of the Tichborne family whom he had not sought, and who had not sought him; had an opportunity of seeing him. There were present besides Mr. and Mrs. Radcliffe and Mr. Danby Seymour, who had seen him before, Lady Doughty, Mrs. Greenwood, Colonel Greenwood, Mrs. Hibbert, Mr. Alfred Seymour, and four of the officers who were in the Carabineers with Roger Tichborne, and all these persons say that the defendant did not recognise them.

Now, of course, very much depends upon the meaning which is attached to the word "recognize." If it means recognizing by any of the usual outward signs, there appears to be no doubt on the matter. The defendant knows perfectly well that the members of the Tichborne and Seymour families looked upon him as an impostor, and I can very well understand the reluctance of a man under such circumstances to expose himself in a public room to a rebuff, which would probably have been the case if he had walked up to Lady Doughty or any one of them and offered to shake hands. Dr. Kenealy put it that the defendant was a proud man, and that, knowing the feelings by which the family were animated, he treated them with contempt, and would not stoop to seek for their recognition of him. But I should be quite willing to accept an explanation for the absence of any outward recognition on lower grounds—namely, that he would not expose himself to the mortification of meeting with a rebuff in the presence of the persons who were assembled there. But there is another form of recognition; and one which may apply to this case. You may go into a room full of people and meet a man with whom you are perfectly acquainted, but with whom you may not be upon speaking terms. But in such a case, if your eyes meet you would be mutually certain that a recognition had occurred. There is a look of the face and an expression of the eyes in such a case which cannot be misunderstood.

Several of these witnesses say they looked at the defendant, and he looked at them; but there did not pass across his face the slightest sign of recognition. Mr. Alfred Seymour, whom he had not seen since his return to England, says that he went into the room before the examination began, and was there ten minutes looking at the defendant. His impression was that the defendant had not the most distant idea of who he was, and if there were a failure of recognition I should say it was a circumstance which should be taken into account. With regard to the officers, perhaps the remarks I made in the defendant's favour do not so strongly apply, because at that time he did not know whether they were friends or foes. He had full opportunity of recognizing them. Even after the examination, when he was going downstairs to hand Lady Tichborne to her carriage, and passed the officers on the stairs—the four of them—Colonel (now General) Jones, Major Phillips, Captain Fraser, and Captain Polhill Turner, he did not recognize them. His explanation is, that he knew them at that time to be his enemies. Then they said they followed him downstairs, and when he was leading Lady Tichborne to the carriage they passed him and looked him in the face, but there was no recognition. It may be, however, that they were mistaken, and that he knew them and did not wish to speak to them.

"I pass on from that examination for the

present and come to the correspondence. On the 5th of September, 1867, he wrote to Lady Tichborne, telling her he had seen Mr. Cooke, who had been in Australia for many years and had not written to his friends, and he was going over to Clonmel to see his family. Now, Mr. Cooke knew that the defendant was the claimant of the Tichborne Baronetcy and estates, and he was acquainted with the Kelletts, the Snakeys, and others whom Roger Tichborne knew in Ireland. He saw the defendant on his return, and might have learnt facts from him which he afterwards surprised Captain Sankey by informing him of. He says in the same letter that Mr. Harwood was pressing for the money due to him, and adds, 'I must give him a bill a thousand for 150l. It really A-normous, but it cannot be helped. It will play the duce with me until I am in prison.' Then he goes on:—

'My dear Mamma,—I hope you will write me a long letter every day. My dear Mamma, I see they still are going to try the Bella plan. Mr. Holmes got a letter from one spy yesterday. He had seen the men who says they were saved from the Bella. He asked them how it was they got wrecked at Cape Hatteras when the boat was picked up near Rio. He said that was easy explained; that a heavy sea struck the ship two days after they left Rio and swept the boat away. He forgot, my dear Mamma, that a part of the ship was picked up as well as the boat. All I can say, my dear Mamma, is that I hope God in His great mercy will forgive those wicked people that has persuaded these poor sailors to perjure themselves for a few pounds. I mention this, my dear Mamma, for I know that person is above the ordinary class of life and one who ought to know better.

'Since writing the above a gentleman has called on me who I knew in Melbourne. This gentleman says that I was pointed out to him in Melbourne as the son of Sir James Tichborne.

'Your affectionate son,

'R. C. D. TICHBORNE.'

'Perjure themselves for a few pounds.' I wonder to whom that would most appropriately apply? He speaks of a spy, but I cannot gather from the letter whether he means a spy of Mr. Holmes or of the other side. Then he wrote to Rous, saying,—

'I am sorry to hear your business has been so bad of late. I am afraid that the interest you have taken in my behalf has done you harm, but depend upon it I shall not let you lose by that. An other month or two will put an end to all my troubles in this world, whatever they may be in the next. They cannot be worse than this.' On the 14th he wrote to Rous a letter which was certainly conceived in an evil spirit:—

'My dear Rous,—I suppose you know that another of my enemies, Captain Strickland, is dead, at Stonyhurst. He called on me just before he went, and because I was not in he abused me most shamefully. So they will all go one day.'

From that letter we learn a fact which we otherwise should not have known—namely, that Walter Strickland, the friend of Roger's boyhood, his most affectionate correspondent to the last, who was on familiar terms with his family, had declared himself against the defendant. The defendant soon afterwards writes to Lady Tichborne as follows:—

'Alderford, Sept. 23, 1867.'

'My dear Mamma,—I am staying down here shooting with Mr. Bulpet. I hope, my dear mama, you will not stay in Paris. I have been

out shooting every day. My dear mama, I think it would be as well if I took a House down here. Itching Abys (*sic*) is to let, and I think it would suit me so much better than Graydon. I find I could live for half the money here, and Inching Abys (*sic*) is so secluded—no neighbours to annoy us. Mr. Hoping (Hopkins) is a goin (*sic*) to try and rise (*sic*) some money for me—and I have been to dine with him, and we talked the matters over. I hope my dear mamma, you have arrived quite safe. And I also hope, my dear Mamma, it will not be long before I shall have the pleasure of seeing you again. If you do not like to come to England, I will come over and see you for a few days. I forgot to mention I received the cheque. Many thanks, my dear mama. I have sent it away for to pay the bills as I am a week behind with them. My friends here are still very kind to me. Every one almost places their shooting at my disposal. I hope, my dear Mamma, soon to have another letter from you. I am again to call on Mr. Scott to-morrow. Now, my dear Mamma, all I have to say is God bless you, and I hope our Holy Mother will take care of you. no more at present from your affectionate son,

'R. C. D. TICHBORNE.'

Now, Itchen Abbas was a well-known place. It was called after the river which runs through Tichborne. Every one in the neighbourhood—almost every Hampshire man—would know it, and yet the defendant calls it Itching Abys. In his next letter the 'Abbas' remains, but the 'Itching' becomes 'Inchin':—

'Alresford, Sept. 24, 1867.

'My dear Mamma,—I have just received your kind letter. I think my dear Mama you will find several letters at Abba Salis waiting for you. I mentioned in one of my letters that I was about to take "Inchin Abbas"—I have now taken it. And it will serve my cause a great deal. As all the gentry will call upon me. I hope my dear mama you will not be angry with me for not waiting for your advice. . . . I call to-day on Mr. Onslow who received me very kindly. I have been out several days shooting with Mr. Bulpet and I find it has done me a great deal of good. Besides the exercise is making me a great deal thinner. I have been over Itchin Abbas to-day. Mama and it is a beautiful place. I hope my dear Mamma you will come and stay a few days with me when you come to England. Do not stay long my dear Mamma in paris (*sic*). I know my dear mama you will be ill if you do please to remember me to Abbe Salis. Hoping dear mama you will write to me as soon as possible—Carter has just come from London—no more my dear mamma except God Bless you, and I hope he will watch over you. Good bye my dear mama for the present.

'I remain your affectionate Son.

'R. C. D. TICHBORNE.'

Next came Lady Tichborne's letter of the 26th of September, in which she strongly objects to the idea of his going to reside in Hampshire:—

'Paris, Sept. 26, 1867.

'My dearest Roger,—I am very sorry I did not hear of you this morning. I expected to have a letter from you. I am quite unhappy about it. I hope you received my letter with the check for 15*l*. I wished you to come over to me, and that was sent for your travelling expenses; but now I think you had better not come, as I mean to return to England at the beginning of next week, and it closes next Monday—at least, they say so. I regret my having taken the apartments for a fortnight, as the air does not agree with me at all, it is so

sharp and keen. The Champs Elysées are full of English, who take the open bracing air, but it does not suit me at all. The Rue Montaigne is in the Champs Elysées, or open into it; therefore I think you had better not come this year, as I will join you almost immediately; but I do not like a house in Hampshire, my dearest Roger, as we should be at so great distance one from the other; you know that I am your best friend, and I think it is better that I should be near you. Your house has nothing to do with what you receive every week time. I pay it besides the 20*l*.; therefore your house has nothing to do with the 20*l*. All what glitters is not gold, my dear Roger; and you must not believe that all those protestations of friendship are true, since nobody will lend you money. I hear many things here coming straight from England, and you would think as I do, that if we are not on good terms your enemies will take advantage of it.

'I have just had your letter, dated the 24th. I am very sorry to find that you have taken Itchin house so far from me, and it is a great pity you value Mr. Hopkins' society more than mine; and I feel very much that, notwithstanding all that I do for you, that you have taken that house away from me. I believe, however, that Mr. Hopkins is not your friend so much as I am, as he refused to assist you with money when I asked him to lend you some; and I do not think that Mr. Bulpett is so much your friend as I have always been to you. I beg you to break it off, and not to take Itchin by all means. I cannot think how you can hurt me to that degree. It is a cruel thing to me to consider that I have given you so many proofs of my affection, and that you prefer Mr. Hopkins and Mr. Bulpett's society to mine. I wish you to break it off immediately, and not to go and live at Itchin if you wish to show yourself ungrateful to me; it will also have a very bad effect in the world your being on bad terms with me, as I cannot help feeling very much the preference you give to your friends over me, and I have always been your best friend. I am about the only one now, or at least I am the sincerest, but I beg of you to break it off at any price, and to give up the thought of going to live at Itchin, if you care for me, which is, I am afraid, of very little consequence to you; and if there is another person about it you must let that person have it, and you have only to tell Mr. Hopkins, your friend, to arrange it for you, or to Mr. Holmes. But I should think Mr. Hopkins, being on the spot, is more likely to do it for you, as you must not live at Itchin at any price. When the last word between you and I is repeated, it will go over to your adversaries; and when they know that we disagree, of course they will be very glad. I am going back to London immediately, and cannot send you the 30*l*. you ask me for. I have sent you 15*l*. yesterday, and I am going to send you the 20*l*. to pay your weekly bills. I cannot do more. Remember to let that other person have Itchin who wishes to have it, and give up the thought of living at Itchin, away from your only sincere friend.

'H. F. TICHBORNE.

'Your adversaries will take it as a proof against your identity your despising my society, and preferring your Alresford friends, but you must get rid of Itchin at any price.'

She puts the lending of money as the test of friendship, and as one which had tried the feelings of Mr. Hopkins in his client. Now, however, we know of the character of Roger, of his self-will, and determination to have his own way, do

think he would not have flown in his mother's face had he received such a letter from her? Would he not have said, 'This is my business. I know my own affairs.' I do not say that Roger, in the defendant's position, would do that. It would have been fatal to him had his mother ceased to be his friend, and therefore we cannot apply the test of what Roger would have done under independent circumstances. On the 27th of September the defendant wrote to Lady Tichborne:—

'My dear Mama,—I received your very kind letter. I am very sorry my dear Mama that I did not wait for your advice about the House in Hampshire. But you must have received a letter from me in which I mention that I had already taken Ithchen Abbas I am very sorry my dear Mama to have done anything that you do not approve of. But you see my dear Mama I had already it before receiving your kind letter I am also sorry I cannot come over to Paris. I shall not go to Ithchen Abbas now until I hear from you again. I am very much annoyed my dear Mama to think I have done anything contrary to your wishes. But what can I do now. I cannot brake my word. It would be the talk of Hampshire For it got all over Hampshire that I am going to live there I shall feel very miserable until I hear from you again For God knows my dear Mama I would not do anything to offend you if I know it. I hope my dear Mama that I shall soon see you if I was not to be here my dear Mama when removing: I should lose half the little things I have. I wish my dear Mama you had let me known about going to Paris before and I should have arrange things accordingly. Bogle is very ill. You know my dear mama how miserable I feel through not being able to comply with your wishes and more so as I wished very much to see Paris again. I think my dear mama I know an office that will advance me the five thousand pound. It will through Mr. Hopkins the same office that he rose the 37 thousand pound from. My dear mama it now past time so I must say God Bless you, and good bye from your affectionate and beloved son
'R. C. D. TICHBORNE.'

'Now, there are in the course of 30 lines no fewer than 14 'dear Mamas'—certainly a considerable sprinkling of that mode of address. Well, upon the paragraph in that letter which referred to the 37,000*l.* the learned counsel for the defendant founded this singular argument, with the desire of disparaging Mr. Holmes, who has, no doubt, long since ceased to be the legal adviser, of the defendant—that by the 27th of September, 1867, not nine months from the time that the defendant had arrived in this country, 37,000*l.* had been swallowed up. 'No wonder,' said the learned counsel, 'that when Mr. Holmes had sucked the orange dry he cast the peel away.' Why, it is perfectly absurd and impossible. If it were true, then Mr. Holmes would be a villain, who ought to be driven out of the profession. but it was not until after we had interrupted the learned counsel and intimated that an inquiry must be made into the truth of such an accusation, and, as I am reminded by my learned brother, after the adjournment for luncheon, that the learned counsel came back into court and was compelled to admit that his client had told him that what he had said was entirely wrong, and that the 37,000*l.* referred to was the money raised in 1850, when the family settlements were made.

Now, just imagine the recklessness of a gentleman, a member of the bar, who, without making

inquiry of his own client, makes a charge of this kind against a professional gentleman of having misappropriated 37,000*l.*, and of having a bill of costs for 5,000*l.* yet remaining unpaid! This is a sample of the many instances in which character has been calumniated—I can use no milder phrase—in the course of defence. And for interfering with the learned counsel in the use of such accusations we have been charged with invading and interfering with the liberties and privileges of the Bar.

Well, gentlemen, on the 30th September the defendant writes to Lady Tichborne stating that he has not taken Ithchen Abbas, and complaining that she should have written to Mr. Holmes on the subject. He had, he said, taken his wife to see Tichborne, adding, 'She was so anxious to see it I would have had no peace if I had not brought her. . . . I am beginning to get very tired of so much worrit . . . Oh, how much happier it would have been for me if I had remained in Australia.' Well, the defendant is asked in his cross-examination the pertinent question whether he, as a Hampshire man, did not know Ithchen, and he said he did. 'How then came you to spell it Itching?' to which he replied, 'There is no accounting for my spelling,' and he gives no further explanation.

On the 1st of October the defendant wrote to Lady Tichborne stating that he and his wife had arrived at Alresford, and that the bells rung 'a merry peal' on their arrival. Next comes a letter which the defendant wrote to Colonel, now General Custance:—

'Dear Colonel Custance,—Having to go to Bath, I thought I would take the opportunity of calling here to see you and Captain Pinkney. I was sorry to say I find you both live a long way from here. My engagement from Bath compels me to be there early, and I must start by the first train in the morning. I shall be back on Saturday about ten a.m., and shall be glad if you can spare time to drive over to see me, as I have to start on Saturday afternoon for Poole, and I should very much like to see you both. I have wrote to ask Captain Pinkney to come over. Dear Colonel Custance, I hope I shall have the pleasure of seeing you on Saturday.—I remain, yours truly,
'R. C. TICHBORNE.'

I call attention to that letter as showing that at this time he was on his way to Bath, which will not be unimportant when you come to consider what he said about Roger Tichborne's visit to Bath in the year 1849. Then he returns to the Swan, and writes to Lady Tichborne:—

'Swan Hotel, Alresford, Oct. 13, 1867.

'My dear Mama,—I am afraid you will never forgive me for not writing so long. I have been travelling every day this week, and have not had one day at one place. I have not received a letter from you since I wrote to you last. I told them to send my letters to Poole, as I expected to be there yesterday; but Colonel Custance and Captain Pinkney keep me so long I could not get away. I forgot to mention they made an affidavit, so I start on Tuesday morning for Poole. I hope my dear mama you have got better of your cough and cold. I have not heard from my wife or children since I left Croydon. I feel very anxious my dear mama to hear from you. I was at Winchester yesterday afternoon. I stayed at the George for about two hours. Mrs. Wright begs to be remembered to you, she is a very nice person. There are many things, my dear mama, I wish to speak to you about, so I hope I shall

soon have the great pleasure of seeing you in England. It's reported about Winchester that you refused to pay a quarter's rent of Itebin Abbays for me. Of course, it's some of Bowker's tricks. I will make a Bowker of him before I have done with him. God bless you, my dear mamma, and our Holy Mother protect you.—From your affectionate son, 'R. C. D. TICHBORNE.'

The defendant had succeeded in securing the adhesion of several persons to his cause, and he writes to Lady Tichborne to that effect:—

'London Hotel, Poole, 14th Oct.'

'My dear Mamma,—I have only just received your kind letter, with the cheque enclosed. My dear mamma, you will think it ungrateful of me not writing before, but I did not know where you would be. I wrote to you last last night from Alresford, to your address in Paris. I was travelling all last week, and you know yourself, my dear mamma, how awkward it is to write when you are not stationary. I have been very successful in my tour. I have seen Colonel Custance and Capt. Pinkney. They have each made an affidavit, and Col. Custance a very strong one. A very strange thing happened when I arrived here. I got out of the train, and an old man looked at me and walk up and said, "How do, Sir Roger." He knew me in a minute, and nobody knew I was coming. For I even wrote to Mr. Holmes and told him that I was not going to Poole until Wednesday. I hope, my dear mamma, you have got better of your cold, and be very careful not to sleep in damp sheets again. I hope to be very successful here, and then, my dear mamma, I shall be on my way to see you. I hope, my dear mamma, you will go and see my dear children, and let me know how they are. I have not heard from them since I left Croydon. I hope, my dear mamma, you have arrived safe, and that you will write to me at once, so that I know where to send my letters to you. I will send this to Croydon, and write to Bogle to forward it to you. I will come to see you, my dear mamma, as soon as I know you have arrived. Hoping, my dear mamma, you are well, and that I shall soon hear from you, I remain, my dear mamma, your affectionate son, 'R. C. D. TICHBORNE.'

In 24 lines we have no less than nine 'My dear mamma's.' Then comes a letter to Mr. Rous, dated the 20th of October, 1867, to this effect:—

'The other side has been very busy with another pair of sisters. One of them has been to see Mr. Holmes; they have been three days at them, and are quite sure of success. Only there is this difference. The brother is dark, and very much marked with the smallpox—very much about the face. I wonder who I am to be next.'

That is the defendant's description of Arthur Orton. What is the account of witness after witness called on the part of the defendant? They say, what a great many witnesses do not say, that Arthur Orton was marked with the smallpox; but all agree that, if marked at all, he was only slightly marked. Therefore, the description which the defendant gives in this letter is incorrect. The defendant speaks of him as dark, the witnesses as fair. Another important observation is that the defendant here gives a description of Arthur Orton's face, and if anybody could give a description of Arthur Orton the defendant could give it much better than the witnesses, for he had seen him as late as 1865, at the time he was making the Wagga-Wagga will; but he does not say a single word of the scar. The scar was introduced for the first time by the defendant's witnesses. The letter goes on:—

'But they are still very sure I am him. I wonder who I am to be next. The man they think I am is still living in Wagga Wagga under an assumed name. They say I was born in Wapping, I am glad they have found a Respectable part of London for me. I never remember having been there; But Mr. Mr. Holmes tell me it is a very respectable part of London.'

On the 23rd he writes to Mr. Rous. In this letter he supposes Mr. Rous has seen a certain paragraph in an Australian paper, which he says is very nice, and he thinks it is the work of MacKenzie, who had been sent out to hunt up the case there. Then he adds that some 600 copies of the paper have been bought up in London—all that they could find—in order to prevent the paragraph getting about. On the 10th of November he writes:—

'2, Wellesley Villa, Nov. 10, 1867.'

'My dear Mamma,—I have just returned from Brighton. I am very sorry I was not at home when you came yesterday. But it is so necessary that I should get all the witnesses I can. I saw Col. Sawyer at Brighton yesterday, and he was very glad to see me. I do not wish you, my dear mamma, to tell any one that I have seen him yet, for I have not yet got his affidavit. He was out hunting, and will sign to-morrow.

'I have not been long home or I should have come up to see you to-night. I am going to Caterham to-morrow. I have now altered my mind. I think I will come to London. Many of the children are all quite well.—Hoping, my dear mamma, that you are the same, &c.

'R. C. D. TICHBORNE.'

He writes again to Mr. Rous on the 9th of December, saying that he has had spasms very bad, and that letter, gentlemen, carries the correspondence down to the end of the year 1867.

We come now to the year 1868. He wrote on the 21st of January to Rous, stating that he was going to Colchester with Holmes, and afterwards he and Holmes were to go to Ireland by themselves, adding 'Do not let any one know we are going to Ireland on any account.' In the course of this letter he says, referring to a letter he had had that his correspondent 'must have been drunk because he could not spell neighbourhood.' I am afraid I shall have to show—if that be a test—that the defendant must have been drunk also, for having, a little further on, to use the word neighbourhood, he himself spells it wrong. He next writes to his mother from Colchester, and tells her that he has got four affidavits of men of the 6th Dragoons, that the poor fellows were very glad to see him, and that their affidavits were 'very strong.' In that letter is a passage which I am ashamed to read in open court, but I must do so. Things will happen in trials which we would very much prefer not alluding to, but to which allusion must necessarily be made. You will judge for yourselves whether a man possessed of a delicate mind such as Roger Tichborne's undoubtedly was, would have written such a passage as this to a woman—a lady—his mother:—

'I have just sent Mr. Rous to get me a pill, for I have not been to stool since the day before I left Croydon.'

Now, in the first place, his indisposition was not serious, and there was no need to mention it at all; but even if it had been that certainly was not a subject to be introduced into a letter. The learned counsel for the defendant said this was in perfect keeping with Roger Tichborne's character, for he had quite as coarse a mind, and was coarser

of using language quite as coarse, for, said he, when Lady Doughty and his mother wrote to ask whether he was ill, he wrote back that it was nothing serious. 'My stomach was out of order.' To my mind there is just the whole difference between the two phrases. The one conveys no offensive or coarse idea, the other is shocking.

Well, the gentleman to whom he refers in this letter was Captain Fraser, who had been in the Carabineers so long. He was regimental sergeant-major at the time Roger joined, and superintended his drill. After meritorious service he obtained his commission, and became captain of a troop in the regiment and quartermaster. He knew Roger Tichborne perfectly, and had been remarkable for his kindness to him when the young officers made a fool of him by playing those practical jokes, which I hope are now entirely discontinued. Captain Fraser's residence being at Yarmouth, the defendant writes to him thus:—

'Yarmouth, Jan. 30, 1868.

'Dear Fraser,—As I was at Colchester I thought I would run down thus far to see you. I have sent my friend Mr. Rous with the note, so that you can say if you have any objection to come and see me and have an hour conversation and judge for yourself if I am myself or not. My friend will shew you Sherston affidavit and you will see by that that he did not know me at first till he conversed with me a little while. Hoping that I shall have the pleasure of seeing you before I start,—I remain, dear Fraser, truly yours,

'R. C. D. TICHBORNE.'

That letter was not only accompanied by the affidavit, but by the Castro correspondence, to which I shall shortly have to call your attention. Captain Fraser says that at first he objected to go, as he had seen the defendant at the Law Institute, and satisfied himself that he was not Roger Tichborne. He said to Rous that he did not like to go, and tell the man he was a liar. His wife, however, said it would be more satisfactory that he should speak to the defendant, and he then said he would go. He arrived at the hotel at about 11 o'clock, sent up his card, and was directed to walk up stairs by the waiter, who opened the door. Captain Fraser's evidence is to this effect. He found the defendant standing just inside the door, and the defendant said, 'How do you do, Captain Fraser?' To that Captain Fraser said, 'I don't know you.' They sat down and conversed, Rous and Baigent, who were there, asking him questions. He found that some things about the regiment the defendant knew very well, and he said to him, 'There are a good many circumstances which, if you are Roger Tichborne, you can tell me, which nobody else knows.' But he says the defendant could tell him nothing of the kind. Then Captain Fraser says he remarked, 'If you can tell me the affair that occurred at Canterbury, I will try to believe you are Tichborne.' He goes on,—'I said, "Do you remember coming to my room at the time you were there?" He said "No." "Do you remember John Irwin?" He said, "Who is he?" I said, "My good fellow, that is just what I told you before. You know nothing about the regiment." Then Captain Fraser explains that Irwin was mess waiter for about a quarter of a century, was well liked by the officers, and that no one could be in the regiment without knowing he was mess waiter. He states that he fancied he saw a slight likeness in the defendant to Roger Tichborne on the side of the face; but the defendant was much better looking, and his hair was much lighter and in-

clined to curl. On his leaving, the defendant asked him to shake hands, and Captain Fraser says he replied, 'I have no objection to shake hands with you, but not as Roger Tichborne.' A long cross-examination of Captain Fraser ensued with a view to extract an admission that he saw a likeness in the defendant, and it comes to this—he thought he saw what he calls a slight likeness, not in the eyes, but in the length of the jaw from the chin upwards behind the ear. The defendant's account in his cross-examination is that Captain Fraser said nothing about shaking hands, and 'passed some remarks' about his stoutness, saying he could not recognise him by his size. The cross-examination of the defendant proceeded thus:—

'Did he say that if you could remember one thing that began at the mess and ended in his own room he would try and believe you were Roger Tichborne, and would sign an affidavit in your favour?—He said nothing about "try and believe" at all; those are words nicely put in. He asked me if I could recollect several things, and I told him all I knew. There was one thing certainly I could not recollect.'

On the 30th of January he writes to Holmes on the subject of this interview:—

'I wrote to Fraser, and Rous took it to him this morning. He (Fraser) came to see me about eleven o'clock. He would not make an affidavit. He says he recognises me by the upper part of the face and also from my conversation, and if I can remember anything in his room before I left he will swear to me anywhere.'

Captain Fraser is asked whether that statement is true, and he says no such words ever passed. The letter goes on:—

'He left me in the most friendly manner possible, and has promised to come and spend a few days with me at Croydon. He is quite convinced, only he has told Bowker he did not know me. He sorry he has done so.'

Captain Fraser is asked,—'Is there any truth at all in that?' and he replied, 'None whatever, except that I told Rous I fancied I saw a slight likeness at the side of the face. The rest of the conversation is totally untrue.' The defendant himself admitted that he had not been able to state to Captain Fraser his recollection of the particular circumstance he had asked about. But on the 2nd of February he writes this letter to Captain Fraser:—

'King's Arms Hotel, Bolton, Feb. 2nd, 1868.

'Dear Fraser,—I have been thinking ever since to try and find or bring to my memory about what we were speaking. Do you mean the time I gave you a silver snuffbox? If so, I remember that very well. I should like to hear from you if it is so. I have seen Mather, the trumpeter, and also Barry, Colonel Hay's servant. They are both at Leeds. You remember Mather. I have no doubt he was as much a Frenchman then as I was, but he now speaks English very well; they have both made very strong affidavits for me. Hoping, dear Fraser, I shall have the pleasure of receiving a line from you, I remain, truly yours,

'R. C. D. TICHBORNE.'

'Address, 2, Wellbeley-villas, Wellbeley-road, Croydon, Surrey.'

The defendant was cross-examined on the subject of that letter as follows:—

'Did you give him a silver snuffbox?—I did. When was that?—At Canterbury. Do you remember the circumstance?—I certainly cannot tell you the day and the hour. Neither do I expect the day and the hour. The circumstance is

states that he fancied he saw a slight likeness in the defendant to Roger Tichborne on the side of the face; but the defendant was much better looking, and his hair was much lighter and in-

what I ask you, not the day or the hour. What were the circumstances of the silver snuff-box?—I do not know that there are any circumstances about it. You merely gave it to him without anything particular to fix it?—To the best of my recollection I handed it to him to take a pinch of snuff; he put it in his pocket, and I told him he might keep it. That is how it came about?—Yes. No more about it than that?—No; there was no more about it than that. Was it an old snuff-box of yours?—Yes, it was pretty old. Had you bought it or had it been given to you, or how came you by it?—I bought it. Did you have it any length of time?—Yes, I had it some time. Did you buy it in France or England?—I bought it in England, to the best of my recollection. I really cannot tell you where—in Piccadilly, I think. It was an old box when I bought it. He put into his pocket, and there was an end of it?—Yes. Do you remember whether the snuff box had any mark upon it? Had it the Tichborne crest upon it or your initials? Should you know it if you saw it again?—I should. Has it got the Tichborne crest?—I think it has my initials on it. Certainly, to take a pinch of a man's snuff and then to pocket his silver snuff-box would have been a very cool proceeding indeed, and the generosity of the man who would allow it to be done would be just as surprising. Then the defendant is asked, 'What is the Tichborne motto?' and he replied, '*Pugna pro patria*.' 'What does that mean?' he is asked, and he said, 'To fight for the country.' It is slightly altered. I have to fight for myself now; and that is not a bad answer at all. Now, what is Captain Fraser's account as to the snuff-box. The learned counsel says:—

'Tell me the history of it.—I was not at mess that evening, but sat in my own room. My room was on the same passage as the mess-room was, and he came rushing into my room in his usual way. I said, "What is the matter now, Tich?" and he told me that the young fellows had been bothering him the whole night at dinner, and I said, "Why do you not take my advice? I said, "Sit down." He was threatening to report it the next day, as no superior officer was present at mess. I said, "Sit down." I opened the door and called out for John Irwin and the mess waiter. He came up in mess dress. I said, "John, bring a bottle of champagne." He went and brought it, and I made Tichborne sit down, and he drank the bottle of champagne, and after the champagne was drunk, I called out "John" again and made him bring a bottle of port. After that he thanked me for the trouble I had had with him at his drills and for the kindnesses I had shown him in the regiment. He then went upstairs—he was not sleeping in his own room, he was expecting daily to be gassed, and he slept in a brother officer's room over my head. He came back and said, "I will make you this handsome present." They were the words he used, and asked me to keep it in remembrance of him. I looked at him and did not know whether I should take it or turn him out, but I took it.'

It was a wooden snuffbox, he adds, and afterwards, when he was in India, the lid got warped with the heat and he threw it away. Tichborne was not, he said, drunk at the time, and he added that he never saw him under the influence of drink. Captain Fraser says that the thing was done seriously, and does not think that it was meant as a joke. It is curious to observe the conduct of the defendant under the circumstances. How did he know that the snuffbox had been given by Roger Tichborne to Captain Fraser? If

he had said that he remembered the snuff-box and the circumstances attendant upon its presentation at the interview, it would have appeared to be strong evidence in his favour if Captain Fraser was right in saying that he did not mention it to anybody. But it may have happened that Fraser had mentioned the circumstance in the regiment and had forgotten doing so. He may have said to some one or more of his brother officers, 'Look at this foolish boy, Tichborne; he came into my room last night, and after we had drunk a couple of bottles of wine he made me a present of this wooden snuffbox as a handsome present.' It may have got out in that way, and the defendant may have heard something of it, although he had got hold of the wrong story. But there is another solution of it. Roger Tichborne kept a diary, and it contained entries of his military life. The defendant would take care to arm himself with that particular source of information; and if in the diary he found a simple entry, 'Give Fraser my old snuffbox,' without any description as to whether it was wood or silver, the defendant's natural conclusion would be that it was silver, and he would probably say, 'There is no harm in my firing a shot. If it was not the snuffbox to which he referred when he asked me, "Did I remember a particular circumstance as occurring in his room," no harm will be done, but if it was it will be something very much in my favour.' It is a fact for your consideration that, whether as the result of recollection after thinking over the question he had been asked or not, he did state that a snuff box had been given, although he failed to remember that it was not silver, but wood. Then comes a letter without precise date to Lady Tichborne:—

'2, Wellesley-villas, Wellesley-road, Croydon,
Feb., 1868..

'My dear Mamma,—I have just received your kind letter with the cheque many thanks, my dear Mamma.

'I am quite of your opinion as regards our Visitor, but still her affidavit is very useful to support your own, and I must act politely to her till I get her affidavit.'

Who is this of whom the defendant speaks thus, but the ever faithful Miss Braine? It shows that though she had devoted herself to his service, neither the defendant nor Lady Tichborne had the idea of Miss Braine as the paragon of her sex which the defendant's counsel asserted she was. They would have been very glad to get rid of Miss Braine—for I don't know anyone else who at that time could have been a visitor at the defendant's—if they did not think that her affidavit would have been very useful, and they had not got it yet. 'I must act politely to her till I get her affidavit.'

Then the letter proceeds:—

'I have not seen Mr. Holmes since you left. Mr. Hington and me had a talk after you went. I showed him Holmes Bill. He was much surprised at his charges, and said if he had known Mr. Holmes intended to charge me when he asked any questions about me he would not have done so. He also remarked that he had done a deal of writing for me, but he done so as a friend. He said he thought Holmes had made the Bill only to show the other side that he acted with no partiality towards me. It very good but I can't digest it. Hoping my dear Mamma that you did not catch cold from the long drive you took yesterday.—I remain your affectionate son

'R. C. D. TICHBORNE.'

'Mary Agnes and Roger are quite well, and say their kind love to you, my dear Mamma.'

ceived a very nice letter from Rous to day in answer to one I wrote when almost mad on Saturday night.

And now comes a letter, which is remarkable in this way, that it is the first in his correspondence with Lady Tichborne in which a reference occurs to the suggestion that he was Arthur Orton. The letter is as follows:—

‘2, Wellesley-villas, Wellesley-road, Croydon, February 19, 1868.

‘My dear Mamma.—I am glad to say I am much better to-day, but it is such a miserable day here that I cannot go out. When I wrote to you yesterday I had not seen the report of my case in *The Times*; in fact, I did not know of it till some gentlemen that was here last night told me of it.

‘I had to send for Mr. Holmes last night to see a Gentleman that was here, but I had no opportunity of speaking to him, for he left with the others.

‘The Gentlemen that was here was some friends of Mr. Bloxham.

‘It appears that the other side are trying to make out that I am not myself but a person named Horton. This person that came happened to be a schoolfellow of this Horton, and in course of business mentioned it to Bloxham and told Bloxham that Detective Withers had been to him three times. He told Bloxham he could swear to this person Horton where ever he seen him, so I told Bloxham to bring him here and let him see if I was his old Schoolfellow.

‘As soon as he saw me He said I have never seen this person before he certainly is not Horton my old Schoolfellow.

‘I then sent for Mr. Holmes and he told Mr. Holmes that the lies they have told him was dreadful. He told Mr. Holmes that the person the other side told him I was a Sailor and had been been a Sailor all his life. He said this person had marks on his hands that would never disappear, from pulling ropes, he looks at my hands and he would swear that I had never been a Sailor.

‘This Gentleman is named Page and is a very rich man. He owner of ninety Vessels on the river, and is a director of the South Western Railways.

‘This will be a heavy blow for the other side, for they will see that they have again broke down.

‘I wonder who they will try to make me next.

‘Now my dear mamma I have wrote you a long letter and have nothing further to say except that Mr. Holmes told me last night that the Rev. Mr. Cooper was going to make an affidavit against me, and that I dont believe.

‘Dont you ask him to do it on any account. Agnes and Roger are both quite Well and Mary joins me in my dear Mama in our kind Love to you.—Your affectionate son,

‘R. C. D. TICHBORNE.

‘Lady James Tichborne, Howlett’s Hotel, Manchester-street, Manchester-square, N.W.’

Then there is a letter from the defendant to Rous, in which he says that Mr. Cooke, who had gone over to Ireland, had come back, and he adds that he has every reason to believe that his case will come on without delay. Then he writes thus to Major Kellet:—

‘March 3, 1868.

‘Dear Kellet,—Mr. Cooke has just sent you a few lines and I have sent you a few of the affidavits. I have 180 of them all together, but I thought you would like to read one of them. I am afraid I cannot leave here just at present.—I remain, truly yours,

R. C. D. TICHBORNE.’

The defendant was very anxious to get Major Kellet to come forward in support of his case, and for this purpose he had recourse to a practice which seems to have been uniformly resorted to whenever he was in communication with persons he desired to make use of. Whenever a person was got to recognise the defendant and Bagant and Rous were present, they took down the man’s name, booked him at once, drew up an affidavit as fast as they could put pen to paper, stated everything in the strongest possible way, and we know from the evidence of witnesses that they sometimes did not say that which was put into their mouths. These affidavits were printed—there was an abundance of them—and the affidavits of A and B were sent to C. C, partly persuaded by the affidavits he had already seen, says, ‘Oh! these persons say he is the man. He must be the man;’ and C is thus prepared for the ready acceptance of the defendant. Then the affidavits of A, B, and C are sent to D, and so it goes on progressively. Then the Castro correspondence and other papers are printed and circulated in like manner.

Now, I must say—and in this I speak the sentiments of my learned brothers also—this course of proceeding was most discreditable to Mr. Holmes and the defendant’s professional advisers, and is one which I hope will never be resorted to again. The system of endeavouring to induce a witness to adopt a recognition which was not the result of his own unbiassed opinion, but of the opinions of others, instead of allowing him to form his own independently of all other considerations, is a system altogether unknown to us in the course of business in preparing for a trial. That system is one of a most discreditable character; it is a disgrace to a professional man who sanctions it, which Mr. Holmes undoubtedly did, and I hope it will never be employed again, or if it should be employed, then I trust that it will be denounced and reprobated as I take this opportunity of denouncing and reprobating it now.

Then there is a letter from the defendant to Rous of the 4th of March, in which he speaks of Mr. Hington, as having lent him so much money. Not having been introduced to Mr. Hington I don’t know what sort of a man he is, but he appears to have been a gentleman in the habit of lending money, and having no objection to taking abundant interest on it. Then there is another letter to Rous, in which he speaks of his apprehensions of being arrested for debt. He says he intended to keep out of the way at present, that if he is arrested he will declare insolvency, ‘as I am not in procession (*sic*).’ He says he could manage perhaps to pay the 200*l.* od (*sic*), but it would be of no use for, if he did he should have to pay the other debts also, and he speaks of Holmes as evidently playing him false, as he told him some time ago that the bills were all right. He goes on to bid Rous if he sees any of his friends to tell them he seems as if he were in a place surrounded with fire—wherever he goes he gets into it. Then he speaks of another of his friends as also playing him false, and he says, ‘Is not this dreadful to find every one I trust selling me like a horse at a fair?’ Then comes this letter to Lady Tichborne:—

‘Croydon, March 7, 1868.

‘My dear Mama,—I had the waggonette to start the first thing, but could not on account of the diarrhea. There are also some suspicious fellows about, so I don’t want to go out. I should like you my dear mamma to come down and bring that letter with you that I showed you last night. I have had a very miserable night thinking of

that letter as I did not know if I had lost it or not. Now I remember I left it on your table.

'Hoping soon to see you, your affect, son,
'R. O. D. TICHBORNE.'

He now goes over to Boulogne to be out of the way, and on arriving there writes to Lady Tichborne:—

'Boulogne, March 8, 1868.

'My dear Mama,—I have great pleasure in letting you know I arrived safe. I have told Bogle my dear mama to send you two letters that I left with him to show Mr. Hingston one is the letter you saw the other is a letter from Mr. Holmes giving up the case. 'Your affect, son,

'R. O. D. TICHBORNE.'

On the 12th of March Lady Tichborne died suddenly. She was sitting in her arm chair in her apartment when some one went in and found her dead. On the 14th of April he writes a letter to Rous in which he says they had heard nothing better 'from the swindling side.' He goes on to say, 'Colonel George found his lies were no good. He thought he would turn away Mr. Onslow from me.' Is that the way in which he speaks of Colonel George Greenwood, who had been so kind to Roger and befriended him so much at the time when he was going to pass his examination? There is no doubt that Roger always spoke of Colonel George Greenwood in the most respectful manner. Would Roger have spoken of him in this disrespectful way, 'He found his lies were no good?' Then he says he had been seeing Orton's two sisters. 'They gave Mr. Holmes two strong affidavits exposing much that was done at the other side.' And now comes a letter to Rous of the 20th of April, which is of the most vital importance:—

'April 20, 1868.

'Dear Rous,— . . . I shall be glad when I get out of this, for we are miserable here. They are going to apply on Thursday for a receiver. We have received another letter from Senor Don Pedro Castro of much importance, inasmuch as they have offered him a bribe. He has sent part of my hair lock in the letter; you shall have a copy. Francis is here helping me all he can. Mr. Baigent's kind regards.—Truly yours,

'R. C. D. TICHBORNE.'

If, as the language imports, this is an acknowledgment that the hair which was sent home was the defendant's hair, either the hair cut off by an old lady from Arthur Orton when a boy or the hair of Roger Tichborne when a young man—if, I say, that hair is to be taken as the defendant's, then for the reason which I shall point out to you by and by it is in my opinion conclusive of the case. The defendant, though in that letter he says it was his hair, and though he gratefully acknowledges it as his hair, in the answer he writes to Don Pedro Castro denies afterwards that it was his hair. That denial must be taken into account. You will, by and by, gentlemen, have to consider whether it is the defendant's hair or not; but it is an element—an important element—in the case that there is this acknowledgment in terms.

Now we are getting on in 1868, and it having been stated by the defendant, both in his affidavit and in his examination before Mr. Roupell that he had passed some days at Mellipilla, and that he had there made the acquaintance of Senor Castro, whose name he afterwards assumed, inquiries were naturally made in that quarter as to whether Roger Tichborne had ever been there, or, if he had, whether some other young Englishman had not been there, and, if he had, who he was, and above all whether he was a person named Arthur Orton.

Certain facts having come to the knowledge of the legal advisers of the family, they applied for a commission to be sent out to Chili. The issue of the commission was opposed by the defendant, and he made an affidavit that the application was made for purposes of vexation and delay. Well, the application for the commission to Chili was granted, and a similar application for a commission to Australia was also made and acceded to. Upon the ground that the presence of the defendant was essentially necessary in both places, and that it was necessary that he should go to Chili in the first place to be identified by the witnesses, and as he could not be in both places at the same time, application was made for the postponement of the Australian commission. For that purpose the defendant makes this affidavit:—

'I, Sir Roger Charles Tichborne, say I have made the necessary arrangements for proceeding immediately to Chili and Australia, to be present upon the examination of witnesses there under the commissions issued in this action, and I distinctly swear that it is my positive intention to carry out such arrangements, and after the execution of the commission in Chili to proceed direct from thence to Australia for the like purpose.'

And Mr. Holmes joined in the affidavit. Well, that application seemed perfectly reasonable, and Mr. Justice Hannen, then a Judge of this Court, made an order that, upon the defendant undertaking to present himself for the purpose of executing the commission in Chili and Australia, the execution of the commission for examining witnesses in Australia should be suspended. On the 9th of September Mr. Hall, Mr. Stephens, and the defendant embarked on board the *Oncida*, and on the 3rd of October they arrived at Rio. According to the account of Mr. Hall and Mr. Stephens, they were all, including the defendant, to go round to Chili by the Straits of Magellan, and passages on board a steamer were taken for that purpose; but the defendant afterwards said he could not go by sea, but would go overland across the mountains, letting Mr. Hall and Mr. Stephens proceed by sea. They accordingly went by steamer, and he set out by land; but when he got to Cordova, a place half-way between Rio and Mendoza, he stopped there for some time, and then turned back to Rio. He makes no communication on the subject to Mr. Hall or Mr. Stephens, but quietly takes a passage by the next steamer that was starting for England, and returns home, to the astonishment of Mr. Holmes. Meanwhile Mr. Holmes, altogether unaware that he was coming back, applies for a further postponement of the execution of the Australian commission, and makes this affidavit:—

'The only question to be decided in this action relates to the plaintiff's identity, and I have always held and expressed a strong opinion that he was bound in the interest of justice to go abroad and personally present himself to the witnesses who might be called upon either side to give evidence under the commissions both to Chili and Australia. Since the departure of the plaintiff and my clerk I have received letters to the effect that the plaintiff had not arrived, but that he was travelling and would shortly join.'

'Now, what inference are you to draw from this account of the conduct of the defendant? What can you ascribe it to except to a desire not to meet the witnesses out there, who might still remember the appearance of Arthur Orton, and who might say that, instead of being a person who they had known as Roger Tichborne, he was

person they had known as Arthur Orton? That would appear to be by no means an unfair inference to draw. The Australian commission was postponed on this very ground, that this person should be present when the witnesses in Chili were examined in order to be identified by them. Of course, when he was examined in court upon the matter, the learned counsel for the then Claimant opened the way for an explanation. The defendant stated that he had been suffering from erysipelas when he embarked at Southampton, and that while proceeding on his journey from Lisbon to Rio he was not very well. Then the defendant says:—

'We all went to Rio, and from Rio to Montevideo. It was arranged at Rio that we should go to Buenos Ayres, and then take the overland route from Buenos Ayres. But in consequence of something they went a different route by the Straits of Magellan. They went to Valparaiso. I continued my original route to Buenos Ayres. When I got to Buenos Ayres I was not well and had to remain on board some days. I made arrangements to go on, and went about 1,100 miles of the journey to Cordova. There I stopped, and returned to England.'

According to the defendant, then, they were all to go by land, and it was not he but Mr. Stephens and Mr. Hall who departed from the original design. He says he left it open to them to proceed by land or by sea, as they pleased, but he persevered in the plan of going by land, to which they all had at first agreed. As to the statement of the defendant that he went about 1,100 miles of the overland journey, that seems to be a gross exaggeration. Roger Tichborne, who went the whole of the route on horseback, says that the distance between Mendoza and Rio is 1,200 miles, or 400 leagues. I do not believe it is 1,200 miles, because I do not think that a foreign league is equal to three of our miles, but that it is closer to $2\frac{1}{2}$ of our miles. If you look at the map you will find that Cordova is not much more than half way from Rio, and that would reduce the defendant's journey to 600 miles. The defendant is cross-examined on the subject of his return without going on to Chili.

'Did you know Mr. Stephens and Mr. Hall were going to Valparaiso to execute the commission?—Of course I knew that. Did you know you had parted from them in the full understanding that you would present yourself at Chili to be confronted with the witnesses?—Certainly, I did—at least, I do not know. Of course I intended to go overland. Did you part with them on the full understanding and expectation of meeting them again in Chili—that you would present yourself in Chili to be confronted with the witnesses?—Certainly I did. There is no doubt about that?—There is no doubt whatever about it. When you turned back from Cordova, and that understanding and expectation could not be fulfilled, did you write to Mr. Stephens to tell him?—I do not think I did. Why not?—If you ask me why, I do not say I did not; I only tell you I do not think I did. I have no recollection of having done so. Cannot you tell me whether you wrote to your attorney and counsel who were going on to Valparaiso to execute the commission?—No, I do not think I did. Cannot you tell me for certain whether you did or not?—No, I cannot for certain. What is your belief?—My belief is I did not at Buenos Ayres. At Cordova—when you turned back from Cordova—did you write to them at all when you turned back?—You mean overland?—No, I do not. I do not

say over land or over sea.—But you say did I write to them when I turned back from Cordova? What was the use of my writing when I was going back myself? The post was stopped over the mountains, so the only way the letter could be conveyed was by the Straits of Magellan, and, therefore, if I wrote at all it would be from Buenos Ayres, and not from Cordova.'

But upon this it is to be remarked that the defendant tells us elsewhere that there were three diligences going over the mountains, and if the diligences could go over the mountains the post could also go over them. Then the cross-examination proceeds:—

'Did you write to Mr. Stephens or Mr. Hall to let them know the undertaking and expectation upon which they had proceeded to Valparaiso would not be fulfilled?—Oh, dear no! I was not so formal as that. Eh?—No, I never took so much trouble as to write and tell them that. I do not think I did tell them. Did you write to them at all?—Yes, I wrote to Mr. Stephens from Cordova, when I first got there. From Cordova?—Yes. After you turned back is my question?—After I turned back I do not think I did write to them. Not at all?—Why not?—I tell you I did not think I did; what more do you want? Why not?—I suppose you will find a letter directly, or something to prove I did—is that it?—Why not?—Why not? I keep telling you I did not. What more do you want?'

Later on there comes a most startling statement; it is that he left England without any intention of going to South America at all. He says it was his intention to return from Lisbon, and that he was only prevented from doing so by illness; and, secondly, he says he could not get his luggage. When asked to explain this extraordinary statement, he says he was at the house of Mr. Marks, that Mr. Scott came in and breakfasted with them, and that they both urged him not to leave England at all. He promised them he would come back from Lisbon. He says he does not think he let Mr. Holmes know of that intention, or Mr. Hall or Mr. Stevens. He says it was very much against the wishes of his friends that he consented to go at all, and that he got two medical certificates from Dr. Lipcombe and Dr. Covey stating that it was not safe for him to go. Then the Solicitor-General says, 'You swore that it was necessary, and you allowed it to be sworn in the affidavit, that counsel had advised you that it was necessary and proper that you should go. That was on the 3rd of September, and on the 9th you started. When did the illness supervene? Was it between the 3rd and the 9th?' The answer to the question is, 'Oh! no; I had been ill a long time previously.' Then he says he did not know whether it was between the 3rd and the 9th that he obtained the medical certificates. He did not know when he got them, but he thought they might be forthcoming. And when this question is put, 'Did you obtain the certificates after you had distinctly sworn it was your intention to go?' he answers, 'I did go, didn't I, part of the way? as if by going part of the way he had fulfilled his undertaking of going to Chili! Then he says he thinks it was not between the 3rd and 9th that he obtained the certificates, but previously. When asked whether the friends that advised him not to go were aware that he had made an affidavit that it was necessary for him to go, he says he really does not know. He says he thought the affidavit was 'a mere formal document,' but afterwards he desires to withdraw that expression. He states

that he intended to come back from Lisbon; and now he was about to be met by a most startling contradiction—a contradiction under his own hand. He says he intended to come back from Lisbon, but could not leave the vessel, and consequently was carried on to Rio. Upon this they put the following letter into his hand:—

'Ship Onaida, near Lisbon, Sept. 12, 1868, at sea.
 'Dear Rous,—So far we have had most lovely weather, and I have been very well. The eyiesplas (*sic*) has quite disappeared. Stevens and Hall are both quite well, in fact every one on board. She a very fine ship, and every comfort that's required. I will write again from Rio, and let you know the remainder of the journey.'

So that this illness for which he had obtained the certificate of two medical gentlemen that it was not safe for him to leave England had fortunately for him quite disappeared when he got to Lisbon, the effects of the lovely weather and the sea air being too much for it. In fact, not only himself, but Stevens and Hall, and every one on board were quite well. And so far from intending to return from Lisbon he promises that he would write again from Rio and let Rous know about the remainder of the voyage. Then the letter proceeds:—

'I did not like Holmes getting me to sign that will at Southampton, as I don't know what is in it. He told me it was the same as the other, but if so why not have let the other remained the same. The more I think of it the worse my thoughts are about it. I will send a codicil desiring my old will and codicil to stand. I hope Holmes will not take any mean advantage in my absence. I don't know how I could have been such a fool to sign a will without first reading it, but the fact is that man has the power of fascinating me like a black snake.'

'Yours, 'R. C. D. TICHBOENE.'

Being cross-examined by the Solicitor-General about his not coming back from Lisbon, he says he believes his legs were bad; he believes Mr. Scott had a letter stating the reasons why he did not come back. He says his luggage was down below, and he could not get at it. At first he is too ill to leave the ship, but when the letter to Rous is produced the reason is that a portion of his luggage is below and he cannot get at it. Then the Solicitor-General calls his attention to the passage about writing from Rio, and he swears he made inquiry about his luggage, but he could not say whether it was before he wrote the letter to Rous or not.

And now one word on the subject of the will which Holmes induced him to make—at least the defendant says, 'Holmes induced me to make the will,' and I confess I believe him, and I cannot help adding that it is a most disgraceful transaction. Holmes was his solicitor, who was bound to protect him against anything that could interfere with his interests, and who would be abundantly repaid for anything he did by the costs he would be entitled to charge, or if he made any advances of money by the terms he might stipulate for. Mr. Holmes, therefore, had no business to take advantage of this man's doubtful position to induce him to make a testamentary disposition in his favour which was beyond the just and legitimate reward of his professional services. What does the defendant do? He makes a series of bequests, which are as follows:—Baigent—that is, Francis Baigent, who was so active in assisting him—is to get 500*l*. Leet, who introduced Holmes and accompanied the party to Paris, is for that service to have 500*l*. Adams, the solicitor at

Alresford, who assists in getting the affidavits, is to have, in addition to his professional remuneration, 200*l*. John Holmes is to have 1,000*l*.; but that is a very small portion of what John Holmes is to get. Upton, with all the land around is to be John Holmes's for life. John Holmes is to be one of the executors of the will, and to get 500*l*. more on that account; and, lastly, Holmes is to have the sole management of the estates, with a salary of 1,000*l*. per annum. I don't wonder the defendant should write as he did and blame himself for his folly in having executed such a will; and having read it I cannot help thinking that Holmes may have had a power of fascinating the poor defendant—whether like a black snake or not is a different thing. I cannot understand a gentleman belonging to the honourable profession of which Mr. Holmes is a member abusing the confidence of his client and the opportunities which that confidence gave him to get his client to make so disreputable and scandalous a will.

Well, the defendant comes back from Chili, having omitted to face the witnesses to be examined under the Chili Commission. Then Holmes feels that this is subterfuge, which would be very much against the case, and he would have nothing more to say to it. From that moment the defendant felt that he had great cause to be aggrieved, and loudly complained. Well, after all that Holmes had done, the affidavit system, the will that he had made, and everything else, the defendant might, perhaps, have said of him as Richard said of Buckingham:—

"Hath he so long held out with me untir'd,
 And stops he now for breath?"

Then Rous, who had accompanied the defendant throughout the country, turns round, and hands over his letters to the opposite party. I don't wonder that the defendant should have said of such a man, 'What a pretty friend he was!' Well, without stopping to inquire whether Rous was actuated by a love of justice or abandoned his former friend from a less reputable motive, we may nevertheless be of opinion that the abandonment of the defendant by Rous may have been instrumental in bringing about a knowledge of the truth.

On the return of the defendant, Mr. Holmes, having as I said just now, given him up, a meeting of his friends was held at Alresford, which Mr. Holmes attended. The question that arose was, whether the return of the defendant without having gone to Chili was sufficient to induce those gentlemen who up to that time had been supporting him to abandon his cause. Mr. Holmes produced the evidence which had been taken before the Chili Commission, and that evidence was read to the meeting.

I can only express my great regret that that evidence was not admissible in the present trial, and that we have not had more evidence from Chili in the shape of witnesses produced before us. If such witnesses could speak as to the identity of the defendant one way or the other, it was very desirable that they should be brought before us. Why we have not had more of these here I cannot say. If their absence has arisen from any ill-judged parsimony on the part of her Majesty's Government which instituted this prosecution, the circumstance is much to be regretted; and if it has arisen from any other and to us unknown ground, that is, in the interests of justice, equally to be regretted. Were the witnesses able to throw any light upon this part of the case? We had one called before us. There was, indeed, second, but the state of his mind was such that, was unfit to be examined, and his evidence we very likely have been of little use. What

of the witnesses examined under the Chili Commission I say also of those examined under the Australian Commission—it was most essential to the interests of justice that they should be brought forward. The Chilian witnesses ought to have been brought forward in this trial. I can only say that when the State undertakes a prosecution there ought to be no difficulty about the production of witnesses, although it may be expensive to bring them over to this country. If the Government takes up a prosecution it ought to conduct it in a way calculated to insure the accomplishment of the ends of justice. I cannot help expressing my unbounded surprise and dissatisfaction that the many witnesses who, as I know from the evidence I have perused, could have given important testimony throwing light upon this inquiry should not have been produced.

Well, gentlemen, the defendant attended the meeting to which I have just referred; and, in addition to the evidence taken before the Chili Commission, Mr. Holmes—I presume for the purpose of vindicating his own conduct in abandoning the defendant's case—produced the letters which the defendant had written to the Orton sisters, with whom Mr. Holmes had been in communication. The defendant meets these letters by an emphatic assertion that they were forgeries. This assertion produced an impression on the friends assembled, and they arrived at a modified resolution with regard to the defendant. There is no doubt, however, that the letters were really written by him. In his cross-examination he is asked from whom the letters produced by Holmes had come, and he says he does not know whether they had come from Mrs. Tredgett or Mrs. Jury. He then admits they were in his handwriting, though he had before stated they were not at the meeting of his friends. It appears that the friends were not undeceived until the defendant made these admissions. One of them, Mr. Scott, we know, came into the witness-box under the impression that the defendant had stated the truth in saying that the letters were forgeries. Mr. Scott is now, unfortunately, dead. It is quite certain that upon some of the defendant's friends the disclosure of fraud or falsehood had no effect. There are people who think, provided your end is fair and reasonable, there is no baseness that you may not stoop to; and they do not think any worse of a man because there are blots on his escutcheon. These falsehoods must not, however, operate unduly to the prejudice of the defendant, with this qualification. A case sought to be supported by means of that description, must be taken *prima facie* to be bad and dishonest. The distrust which fraud and deception engender may well have arisen when, after this solemn and public denial, the defendant was compelled to own the letters were in his own handwriting.

Before I pass away to the question whether the defendant is Arthur Orton or not, it is necessary, in order to complete the series of facts necessary to elucidate that question, that I should put before you what passed between this Orton family and the defendant. You will remember that the first thing he did on arriving in this country was to go down to Wapping and open communications with them. He corresponded with them under a false name; and then, having got all he wanted, *dropped them*, and put them on a false scent by *telling them to write to him at Liverpool, and took no further notice of them*. Things remained in this state till the latter part of 1867, when, in the action of ejectment, the family started the story that he was Arthur Orton and not Roger

Tichborne. Then the defendant's relations with the Orton family were renewed, and from that time he was in communication with Charles Orton and the Orton sisters, and was in the habit of supplying them with money. In his cross-examination he was asked:—

‘How soon after those letters did you communicate with Orton's sisters?—Not for a long time after; I believe it was about twelve months after. Had you communications with them between?—Yes, I had. Did you pay them money?—Yes; I let them have some money. I think I let them have some money before they made their affidavits. Was there a brother of Arthur Orton called Charles?—Yes. Had you given him money?—I had; yes. Before he made any statement?—Yes, I believe it was. How did you send the money to them? Did you give it to them with your own hands?—No; I never saw them until I saw them in the presence of my attorney. How did you send the money to them?—By letter. Do you mean by cheque?—Yes; some was by cheque, I think, and some was in notes. Did Charles Orton correspond with you under the name of Brand?—Yes; I believe he did in the latter part. About when?—I think it was in the beginning of 1868. On what bank did you draw in paying the brothers and sisters of Arthur Orton?—It was the brother I spoke of. I did not send the sisters any cheques, I think? Are you sure?—Yes; I am pretty sure of that. How did you pay them?—I think I generally sent them notes. A bank-note?—Yes. With letters?—Yes, I daresay there was letters. You paid Charles Orton by cheque?—I know I sent him one; I do not know that I sent him more. Cannot you tell me on whom it was drawn?—No. Had you an acknowledgment of the money so sent?—No. I think I sent money to one sister and to the brother. To Mrs. Tredgett and to Mrs. Captain Jury. Have you got any of the letters that Charles Orton sent to you under the name of Brand?—No, I have not. What has become of them?—I have destroyed them. Will you swear that?—Yes. (Letter read.) “No. 1, Melongrounds, Martin-road, Peckham, Surrey.—To Lady R. C. D. Tichborne. Madame,—I have taken the liberty of writing to you to ask you if Sir R. C. D. Tichborne left any letters or message for a party of the name of Brand before he went away. If he as I should feel much obliged if you would forward them to the above address as I think it is strange that he did not answer the two letters that I wrote to him before he went. Please to burn this as soon as you have read it.” Had you some letters before from Charles Orton under the name of Brand?—Yes, several. What allowance had you been making him?—Well, for two or three months I allowed him 5*l.* a month I think. What did you allow any other of the relations of Charles Orton?—I did not make any allowance. Whenever they wrote to me and wanted any—were in distress, I used to send them some. Had Mrs. Tredgett any other means of subsistence besides what you allowed her?—I really cannot say. I do not know anything about her affairs. You say you sent money to her when in distress. What did it come to?—Well, I never sent her more than 5*l.* at a time. How often do you think you sent her 5*l.*?—I suppose I sent the two of them in all between 30*l.* and 40*l.* Whom do you mean?—The brother and sister. You mean to swear you have never given the others any money at all—the other two sisters?—I swear that positively. Yes. Never a farthing?—Never one farthing to my knowledge. That I swear!

During the absence of the defendant when he left England in order, as was understood, to join the Chili Commission, Charles Orton wrote a letter to the defendant's wife:

'Melon Grounds, Bermondsey.'

'My Lady,—I have taken the liberty of writing to you to ask if Sir Roger, before he went abroad, left anything for anybody named Brand. If he did, I should be glad if you would forward it to this address.—I remain, &c., CHARLES BRAND.'

It appears from a letter of the 11th of July that one of the sisters had made affidavits in favour of the defendant. This letter is written by the defendant to Mrs. Jury, the wife of Captain Jury, and is in the following terms:

'Alresford, July 11, 1868.'

'Dear Madam,—I have just received your letter, and hasten to reply to the same. I received a letter from your husband, Captain Jury; but not knowing his writing, I did not know if it was a trick of my enemies or not, therefore did not answer it. I have not heard from your brother Arthur since; but I have advts. for him in the Australian paper. I had an interview with Captain Angell and your brother Charles the other day at my solicitor's office in presents of Colonel Lushington and Mr. Holmes. It appears the solicitors of the other side got Captain Angell to make an affidavit before he left England on his last trip, stating that my photograph was the photo. of your brother Arthur. However, since he has seen me he is convinced to the contrary, and is going to make an affidavit, as also your brother Charles, in my favour. I have sent you by book-post a portion of my affidavits which contain them of your sister.'

On the 15th he writes to Mrs. Jury, making an appointment to meet her at his solicitors'. In his cross-examination he states that he received a good many letters from Mrs. Jury and Mrs. Tredgett, between the end of 1866 and July 1868, but that he destroyed all the letters he received from them up to the time of his going to South America. He is asked: 'Why did you destroy them?' and he replies, 'I was not aware they would be of any use.' 'Did you think the letters of Charles Orton and his sisters of no importance?—None whatever.' That is an important part of the case. The defendant was in the habit of supplying these persons with money, and the contents of their letters to him would probably enable any one to judge whether the correspondence was carried on on the footing of the defendant being Roger Tichborne or on the footing of his being the brother of these people. One would have thought that if he carried on the correspondence in the character of Roger Tichborne he would have kept the letters in order to show that the intercourse between them was of a perfectly innocent kind; but, instead of preserving the letters, the defendant tells us he deliberately and purposely destroyed them.

Well, the defendant puts himself in communication with this Orton family, and obtains from them the information he requires. After getting all he can out of them, he drops them for about twelve months. Then he takes them up again, and gives them pecuniary assistance. Afterwards he goes away to Chili; but he forgets to make any provision for Charles Orton, who, on discovering this, betrays him. This is, I think, an important chapter in the history of this case. The question naturally presents itself—If Roger Tichborne wanted information about the Orton family, why should he have shrouded himself in

mystery and secrecy? Looking at the matter with reference to the Arthur Orton part of the case, does not this secrecy tend to show that the correspondence was carried on and the pecuniary aid given because it was necessary to keep Charles Orton and the sisters quiet? If they knew he was their brother and came forward to say so, that might seriously damage and endanger the defendant's case. At all events, the correspondence staggered Mr. Holmes, and was one of the circumstances which led to his giving up the defendant's case, as appears from a letter written by Mr. Holmes to Mr. Rous on the 13th of October. In this letter Mr. Holmes mentions that Charles Orton had made an affidavit to the effect that the defendant was his brother. Charles Orton said that he had destroyed all the writings he received from the defendant, except two scraps, which he handed over to Mr. Bowker, relating to the lending of money. These are the facts connected with the intercourse of the defendant with the Orton family.

And now it is necessary to enter on one of the main issues in this case—Is the defendant Arthur Orton, or is he not? The evidence bearing on that question consists of two parts. First, there is the evidence of the persons who speak to the identity of the defendant with Arthur Orton, either affirmatively or negatively; and, secondly, there are the various facts established, and for the most part clearly established, by other evidence, and which we have to take into account before we can decide on which side lies the truth. I will very briefly run through the evidence of the witnesses.

Of course the most important witness called to speak to the identity of the defendant with Arthur Orton was Mary Ann Loder, his sweetheart. She says she walked with him every day, and knew his voice perfectly. She says he had light hair when he came home from South America, and that the hair which came from South America is of the same colour as Arthur Orton's hair was at the time. She speaks of his nervous affection, and the strong family likeness both to the father and mother. Well, of course, like everybody else, she is not infallible; but a woman who has been on terms of such intimacy with a man is not likely to lose the recollection of his features. It is hard to believe that Miss Loder has come here to state what is untrue. The learned counsel for the defence says that she had a dislike to Arthur Orton because he threw her over and played false to her, and therefore she comes forward and says that the defendant is Arthur Orton to spite him. I cannot call that argument. I can quite understand that if Roger Tichborne had kept company with her and she desired to spite him that she should come forward and say that he was not Roger Tichborne; but why Miss Loder, who never had any relations with Roger Tichborne, should say that the defendant is Arthur Orton, if he is not, I cannot understand. Then the learned counsel made an attack upon her character, which signally failed, and which I think was very much out of place.

Mary Ann Cockburn, who was upon intimate terms with the Orton family, and who was present at the death-bed of both old Mr. and Mrs. Orton, speaks of his having had St. Vitus's dance, and says that he was not pock-marked. She never saw him wear earrings, and when she went to the Bankruptcy Court, where the defendant was to be examined, she says that she knew him at that moment. She remembers that his hair was the

and straight, and that his hands were rather small. Then she says he went by the name of 'Bullocky Orton.' Google, a lighterman, who lives nearly opposite to where the Orton family resided, says that he recognised the defendant; but as he has not seen him since he was 14 years of age, his testimony necessarily has less weight and cogency than that of people who were acquainted with him until a later date. Next there is a Mr. Whitbread, who knew the family and Arthur Orton from the time that he was five years of age, and until the time he left England in the Middleton. He says that Arthur Orton had a twitch, and that the defendant had the same kind of a twitch of the eyebrows. He remembers the St. Vitus's dance, and speaks of the voice of the defendant being so much like that of old George Orton, that he would have known him even by his voice. Then he tells a strange story of his being at a pigeon-match at Ilford, where the defendant shirked and avoided him. He says that he was not in-kneed, but had a kind of in-kneed walk, which was common to his father and to his brother Thomas.

Mrs. Aitcheson, another witness, knew Arthur Orton before he was sent to sea, and remembers him having the small-pox. It was upon him some three weeks or a month, but left no marks. Mrs. East also speaks of his having had the St. Vitus's dance. So does Mrs. Church, who says besides that, on hearing the defendant speak at the Cambridge-hall, she immediately recognised his voice. I have a distrust of people who, unless they formerly had almost constant intercourse with a person, come forward and, after the lapse of 20 years, say that they recollect a voice. There are voices which leave an impression upon you, and which you do not easily forget; and when you had been in the habit of constantly hearing it, I quite agree you can recognise a person as easily by the voice as by any other test. But, on the other hand, if it has only been a casual intercourse, I think it very suspicious when people say 'I perfectly recollect the voice.' Then Mr. Hallam, a builder, knew him as a boy. After he returned from America he says he was a big, stout boy, half as heavy again as lads of his age generally were. He was called 'Fatty,' or 'Bullocky' Orton, but he never saw him about in the neighbourhood, and had only heard him speak to his school-mates. I cannot say that he is a witness of much importance. Then there is Sarah Gill, who lived all her life in Wapping, and had seen Arthur Orton often in his father's shop. She has a recollection of his voice, but she can only speak of the tone at the time he was 14 years old.

Then there is Frederick Cronin, who was frequently in communication with Arthur Orton, whom he saw in his father's shop, assisting in his business, from 1842 to 1848. There is another Cronin, named Charles, who left his father's and went to school in the country till 1844. When he returned he knew Arthur Orton and played with him. He remembered his going to sea, and says that he was called 'Bullocky,' he was not pock-marked. The importance of these two witnesses is that they were living in the immediate neighbourhood, and they were persons whom the defendant inquired after at the Globe. Therefore the Cronins were perfectly well known to him; he recollected their names, and it appears that there was such an intimacy between them as would leave an impression of what sort of a person Arthur Orton was. Then there is Gosheron, the sailmaker, who was a schoolfellow of Arthur Orton, who knew

him both before and after he went to sea. He never saw any pitting with the small-pox, and never saw any earrings, and he says also that he does not remember the St. Vitus's dance. Downley also remembers Orton as a boy. Charlotte Smith, daughter of Mr. Gosheron, saw Arthur two or three times a day, both before and after he went to sea. Mrs. Lawes, sister of Captain Jury, went to school with the Orton children, and used to spend three evenings a week with the Orton family. But, then, this was before Arthur Orton first went to sea. She says he went to sea on account of the St. Vitus's dance, which used to draw up the side of his face. There were no marks of small-pox. He had had small-pox, but it left no marks. He never wore earrings, but they were worn by the brother who went to sea. She describes him as a fat boy; he was called 'Bullocky,' and inasmuch as all the family had a little inclination to high shoulders they called them the 'buffalo' breed.

A witness named Henry Allen, who was cook on board the Middleton on the voyage out, when Arthur Orton went to Hobart Town, says that Orton shipped on board that vessel as butcher. Arthur Orton was in charge of two Shetland ponies. This witness recognised the defendant sitting before him as the man who went out with him in the Middleton. He did not notice that his ears were pierced. He did notice that he had rather a twitch in one eye, but which eye he did not know. It is not an uncommon thing for sailors to wear earrings, says this witness, who adds that he slept in the third berth from Orton's, and in the same compartment; that he would be about 18 years of age, was strong, and though witness saw his arms bare he never observed any mark upon either of them. Thomas William Wallis, saddler, at Wapping, says he used to do business with George Orton, and frequently went to his shop. He speaks of a twitching of Arthur Orton's limbs and eyes. He remembers his coming back from sea wearing a sailor's costume, after which he returned to sea again. He never saw him pock-marked, and never saw him with earrings. He also says that Arthur Orton was wonderfully like his father in the face and very much like his build, being stout, fat, big, and very likely to turn into a stout man. He identifies the defendant as Arthur Orton. Collins, carver and gilder, who had the premises over the stable where the Shetland ponies used to be kept, saw Arthur with them sometimes, and is sure the defendant is he. George Green, baker, in the High-street, saw Arthur Orton from his childhood until 1852, and says Arthur had a certain movement in his eye. He speaks of Arthur serving in his father's shop—a fact which will be material by and by. Shortly after Arthur came back from sea he came to the shop. Does not remember any marks of small-pox nor his wearing earrings. Told the defendant, in 1870, when with Mr. Moojen, that he was Arthur Orton; is positive he is the man.

Walter Wheeler, apprenticed to a smith, next door to the Ortons, said Arthur used to come into his master's shop. They were together almost daily for four years until Arthur went to sea. After his return, the first thing he did was to come to the shop to see witnesses. There were scales in the shop and he weighed Arthur and found he was 13½ stone, being then 17 years of age. Roger Tichborne, we know, did not weigh 10 stone. This witness never saw any pock marks whatever, never saw earrings, has no doubt about the voice; in 1866 recognised the defendant in a moment.

Hannah Johnson has lived at Wapping all her life, knew the Ortons as long as she can remember, remembers Arthur, and his asking her to walk out with him; told him, though only as a race, that he had a sweetheart already. She recognises the defendant as Arthur Orton. Several other witnesses recognise him. Charles Lawrence, formerly playmate of Arthur, and apprenticed to a sailmaker in Wapping, saw Arthur daily; he was a stout, brawny lad, dressed in a butcher's frock; remembers the twitching, and says he was not marked with smallpox. But then I think he only knew Arthur up to the time of his going to sea, at the age of fourteen; and it is very doubtful whether his having the smallpox did not occur after he came back. He identifies the defendant. The master of a lighter remembers Arthur well, says the defendant is he, and adds that 'when he laughed he laughed all over his face.' That is a graphic description. I dare say you have seen the defendant smile; you must form your own judgment whether he does so. This witness says, 'No one who knew the Orton family could have doubt about them; they were an awkward-made lot.'

William Willoughby has lived in Wapping all his life; knew all the Ortons; remembers that Arthur had a nervous affection. Saw the defendant at Mr. Moojen's, and said, 'If you are Arthur Orton, you must know Mr. Willoughby.' The defendant smiled, and witness said, 'You are the image of your sister Margaret.' We have not had Margaret here. It would have been more satisfactory if we had; but I am not sure whether that is not the sister who died. Mr. Smith, a master bricklayer at Wapping, says Arthur was nicknamed 'bullocky,' and remembers his going to sea. He swears that his ears were not pierced. He says there is not the least doubt that this defendant is Arthur Orton. Thomas Halsted knew Arthur perfectly well, and says the mother of Arthur told him that he had had St. Vitus's dance. The evidence of Mr. Brown is important, because it fixes the fact of his having had St. Vitus's dance. He says he attended Arthur for the disease popularly known by that name soon after the great fire at Wapping, by which the complaint was occasioned. He was a gross, fat boy, with light hair, and was in-kneed. In cross-examination he says he could fix 1851 as the last time he saw him. He distinctly remembers he was not peak-marked. Now, he is an important witness, because he establishes beyond reasonable doubt that Arthur Orton had the St. Vitus's dance and he speaks of his being rather in-kneed, rather more in one knee than another. That is an important circumstance, because the mass of the Wapping witnesses describe Arthur Orton in that particular in almost the same terms as the Carabineers describe Roger Tichborne. Henry Angell describes Arthur Orton and says that when he first returned from sea he was a smart lad—smart at throwing the lasso. He believes the defendant to be Arthur Orton.

That evidence is met by a strong body of evidence on the other side, and when you come to the witnesses for the defence you will see that Arthur Orton is sought to be distinguished from the defendant in several important particulars. First, with regard to his feet and hands; and secondly, with regard to certain marks which were upon Arthur Orton, and the mark relied upon is a scar on the face. There were called for the prosecution 50 witnesses to show that the defendant is Arthur Orton, and throughout the whole of their examination no suggestion was made of

the scar. The defendant on three occasions gives his recollection of Arthur Orton. In his affidavit and in the letters he describes Arthur Orton as being known to him, but he says nothing about the scar on the face, nor is it mentioned in the whole course of the cross-examination of this body of witnesses, although questions are put about the peak-marks. The learned counsel for the defendant does not ask any of the witnesses for the prosecution about a scar, and it is not until some of the witnesses for the defence have been got rid of that a witness springs up and says, 'I remember his having an accident which left a scar, and that scar must have been indelible.' When I come to the Australian witnesses I shall speak of the scar on the countenance of Arthur Orton which scar other witnesses never saw.

The first witness called for the defence was Mr. Page. He knew Orton up to '14. He was a remarkably fat boy, and had high cheek-bones. He had rather light eyes. He was ungainly built. He remembered seeing him in the Exhibition year, 1851. He had large hands and feet. Then he said there was not the slightest resemblance between the defendant and the Arthur Orton he knew. Arthur Orton's hair was lighter by several shades than the defendant's. His hair was very light—as light as the hair shown to him, which was the hair that came from South America. His eyes were light blue, cheek-bones high; his face was tolerably well covered with fat. He was a remarkably fat boy, in-kneed. In this the witnesses for the defence concur with the witnesses for the prosecution. He was slightly in-kneed. He walked as if knock-kneed, the right leg being loose. This evidence reads very much like that of the Carabineers with regard to the defendant's walk. He had a remarkably enlarged foot, continued the witness, a wonderfully large foot, with a low instep, and a kind of dragging in his feet behind him. He had St. Vitus's dance. When the boys saw Arthur Orton, they said, 'Here he comes,' and that would at once bring on the fit. He was marked with smallpox at one time, but the witness was not certain that the mark remained on the face afterwards. He wore earrings, but he could not prove who had pierced his ears. You know the importance of that, gentlemen, is that the defendant exhibited his ears, and there was no proof that they had been pierced.

A witness named Salloway, a sailmaker, said he knew Arthur Orton, and played with him at games. He was clumsily built; he had large hands; his hair was light—silvery white, like flaxen—'like yours, my lord,' said the witness. He noticed but very little change in him. He went away in 1848, and the witness did not see him again till 1851. One peculiarity of the Orton family was a projecting upper jaw, showing large teeth in front. That peculiarity existed in Arthur Orton. Finnis, the lighterman, went to school with him and knew him well. He had a deep scar across the inside of his left hand. They were once upset in a boat and were in danger of being drowned. They came to a vessel at anchor, and he was able to grasp the sponson piece and hold on, by which both were saved. If he had not had large hands he could not have held on; the witness could not grasp it. His face had no resemblance to the defendant. Godhart knew Arthur Orton, and had many opportunities of seeing him frequently. After he came from sea the first time he was an awkward-shaped fellow in every way. He had a twitch which appeared to be spasmodic in his lower

but not so bad as it had been earlier. He had the name of 'Slobbery Orton.' Both hands and feet were large. He was called 'Bullocky' from his awkward manner. He was inclined to be a very large man, and weighed 13st. 6lb. at 17 years of age. Was quite the reverse of bright. Appeared thick-headed and mischievous. When he returned from sea he had a low-toned voice, which became husky after he had spoken three or four words, as if he had an affection of the throat. If he walked quick or ran his knees turned in. Arthur was more like Mrs. Tredgett than Mrs. Jury. His right leg as he walked went in a little, as if he had not strength; but it was not what is called 'knock-kneed,' because when he was standing it would not be observed. This agrees in a remarkable manner with much of the evidence as to Roger Tichborne. One might think that the witnesses had agreed in the very words they would use.

John Whyler, a retired fishmonger, remembered Arthur Orton before he went to sea. He says he had blue eyes and light hair, but he never noticed that he was knock-kneed. Weston, the boot and shoemaker of Wapping, says he saw Arthur frequently, and that he had large feet. He mentions his being thrown from a pony in the Commercial-road, and that on his being taken up he was found to be cut on the left cheek, the wound reaching up to the eye. This witness says the defendant is not like Arthur Orton, who was a gruff-speaking man, and that his hair was light brown; he recollected Charles and Arthur of the Orton family. Three or four days after the accident the witness saw him again. What is the view suggested? That all evidence relating to the earrings and to pocket-marks applied to the other brother. This is one of the witnesses who attended the meeting at Creighton's, and what I am about to say applies not only to that meeting, but to others which were held in different parts of the country.

We know that for months a system of agitation was kept up, pending these proceedings. At these meetings inflammatory speeches were made for the purpose of exciting a storm of popular passion, if possible, and we know that this systematic agitation was not unsuccessful. Witnesses were invited to attend these meetings, or, if not invited, did attend them, and were naturally carried away by the excitement which prevailed, especially when it was found that anybody who had anything to say in favour of the defendant was received with enthusiasm and universal applause. By that means witnesses were drawn into the vortex of this popular excitement, and the natural consequence of that has been either that they were induced to come forward with statements exagger-

ated and unreal, or that they were induced to colour facts to which they were able to speak so as to make them very useful for the cause which they were intended to serve. We find that gentlemen of station were not unwilling to lend themselves to an agitation of this kind, and to go about the country making violent speeches, attacking every one who did not happen to be on the side of the defendant—acting, as it were, at these public meetings, where the defendant was exhibited for money, as the showman of the exhibition, and doing everything they could to create a storm of public prejudice and passion which would carry everything before it, and prevent you, when you came to the discharge of your duties, from bringing to bear upon them that calm judgment which is necessary for arriving at a clear conviction, or possibly to operate on your minds for the purpose of making you shrink from discharging your duties, lest you should incur popular disapprobation. I am quite sure, however, that it will produce no such effect upon your minds, but I must warn you against receiving with unreserved confidence the statements of witnesses who have been operated upon in this manner.

You, I am sure, are 12 honest men who will not be influenced by any other consideration than the desire conscientiously to discharge your solemn and important duty; but the danger is that the witnesses have, unconsciously to themselves, been subjected to the influence of popular prejudice, and so come forward to give their evidence without that solemn regard for the truth which ought to prevail when a man enters the witness-box. I deeply regret that this thing was allowed to go on. It was allowed partly because during a considerable portion of the time this public scandal was going on, this Court was not sitting, and partly because we could not help feeling that when a man has the powerful machinery of the Government brought to bear upon his case, and is not in wealthy circumstances, it would be hard to debar him from appealing for the means of carrying on his defence. Therefore, there was no interference at first, but the scandal became so great that it made us regret we had ever allowed it. If similar circumstances should ever again arise, I trust that what was done at the meetings I have referred to will be considered, not to establish a precedent, but to furnish a warning. It has had a most mischievous effect, exciting public passions to an extent that has never been known before in regard to any case which has been brought before a court of justice. I trust that the practice will never be allowed to come into existence again, but that, if such a state of things should occur, it will be put down with a strong and unhesitating hand.

TWELFTH DAY, *Monday, February 16, 1874.*

Gentlemen, when we broke up on Friday I was calling your attention to the evidence of the defendant on the subject of his identity or non-identity with Arthur Orton, and this is a part of the case which certainly deserves serious attention, because the defendant has brought before you a very strong body of evidence—the evidence of numerous, many of them respectable, witnesses, most of whom had an opportunity of knowing Arthur Orton, and are, therefore, competent to form an opinion, as far as opinion goes, as to whether the defendant is or is not Arthur Orton. The evidence of such a body of witnesses *deserving of respect, and of respectful consid-*

eration, because though there may be a few open to exception, it would be idle to suppose that the bulk of those witnesses are not perfectly honest in the judgment they have formed and in the opinion they have expressed. It may be, perhaps, that they were a little influenced on account of the species of agitation which was got up in Wapping and elsewhere, and that the enthusiasm which was created may have induced some of those witnesses to go further perhaps than if they had not been subject to that excitement they would have done. But, as I have said, they are entitled to respectful consideration at your hands.

I do not propose—it would be useless—to go

through them *seriatim*. We may take it that there are certain things as to which they all agree. They all agree that Arthur Orton, when a young man, was a great, big, heavy, hulking fellow—that his hands and feet were large, and disproportionate to his general form. They all agree that he had high cheek-bones, and that he had a heavy brow and large eyebrows. These are the general characteristics they all assign to him. Then, again, a great many of them agree in saying that he was in-kneed; and in connexion with that I observe that those of them who speak in the greatest detail in reference to that subject seem to think that he was in-kneed more from weakness than from actual conformation of the limbs, and when he was walking that fact particularly showed itself—a matter by no means unimportant when we come to look at the evidence of the Carabineers with reference to Roger Tichborne. They agree almost on the same facts and use almost the same language. The defendant's witnesses then agree on these points, and their numbers make them a formidable body. There are some of them who speak as to certain facts which would if proved distinguish Arthur Orton most undoubtedly from the defendant; and the evidence of these witnesses must be gone into—we cannot deal with it in the mass.

I must call your attention to what the witnesses say as to three things—first, it is said that Arthur Orton had some peculiar marks, which the defendant had not; next, that the defendant has marks which Arthur Orton had not; and, thirdly, that Arthur Orton's ears were pierced for earrings, while the defendant's have not been, and that Orton wore small wires in his ears. That was a thing, it was urged, not unlikely to occur in the case of Arthur Orton, as sailors occasionally wear earrings; and if it is a fact that Arthur Orton's ears were pierced, and that the defendant has no such marks, it will be a strong circumstance to distinguish him from Arthur Orton.

Let us see then what the witnesses say, and first as to the scar upon the cheek. The first witness who spoke as to the scar was Richard Henry Moore, assistant of Dr. Miller. He says that Arthur Orton having been thrown from a pony, he was brought to Dr. Miller's place, with a cut across the face, and witness dressed the wound, which was on the left cheek, with diachylon plaster, and saw it again at the end of a week, and that it would leave an indelible scar. Another man named Weston says that he actually saw the accident. He recollected Arthur Orton, who was riding one pony and leading another when he was thrown, receiving a cut on the left cheek, and he saw him taken into Dr. Miller's. The accident was witnessed by several other persons, and they saw also the cut on the face. There are other persons who said they saw the mark from time to time, but their evidence is of such a character that you must, when we come to it, give it your very careful consideration. A witness named Haywood, a bootmaker at Wapping, says he knew Arthur Orton from a boy, and that he certainly had the mark of a cut across the cheek, but does not recollect whether it was on the right or left cheek. This witness speaks to a fact which may be material to a distinct part of the case. He says that he was present when a boy threw an oyster shell, which struck Arthur Orton obliquely—as an oyster shell would fly through the air—on the back of the head and cut it to such an extent that the blood flowed. Whether that cut left the

scar which we have heard of as existing on the back of the head of the defendant you will have to judge by and by. Now, the strange part of this evidence is this—that Weston, the man who saw the accident, fixes it in the autumn of 1851 or 1852. Mr. Moore, who dressed the wound, fixes it distinctly in the month of September of 1852; but this witness, Haywood, says that the mark was there before Arthur Orton went to sea in 1848. William Myers, the next witness, says that Arthur Orton had a cut on the left cheek, and that he saw several pieces of sticking plaster over it. He says that this was when he was twelve or thirteen years old, and that must have been in 1847 or 1848. That also is entirely irreconcilable with the evidence of Weston and Moore. Brunson, another witness, says that Arthur Orton had a scar on his cheek when he left England, but adds that when he came back he did not notice the scar. Thomas King said that to the best of his recollection Orton had a scar on the side of his cheek when he came home from sea after his first voyage. He saw it between the first and second voyage, so that his evidence concurs with that of Weston. Then George Champion, who knew the Ortons well, swears to a mark or scar on the left cheek of Arthur, but does not fix any date.

All this evidence is certainly open to the observation that the defendant has three times given a description of Arthur Orton—in his affidavit of 1868, where he says he was 'slightly pitted;' in his letter to Kous, in which he says he was 'deeply pitted;' and in his examination at the trial that he was 'pitted with the smallpox,' and in none of these cases did he make the slightest reference to a scar. Another thing which struck me forcibly in respect to the scar was that every one of the witnesses called by the prosecution from Wapping was allowed to leave the box without the learned counsel for the defendant putting one question relative to it, leading to the supposition that it was not till late in the case—indeed, until Weston and Moore came forward and spoke about it—that the learned counsel had heard of this scar. In consequence of this the prosecution very properly in a rebutting case recalled several of the most material of their witnesses, who had spoken to the identity of Arthur Orton. Among these were Miss Loder and Mrs. Johnson: with the latter he had proposed to keep company, and with the former he did keep company, as her lover. Now one would certainly think that a young woman keeping company with a man, with a view of becoming his wife, seeing him constantly, and walking out with him, would know if he had a scar on his face or not; and both of these witnesses positively swear that he had no scar. There being this conflict of evidence we shall by and by, when we come to look at the facts which affect the question of identity, probably find on which side the scale ought to incline—facts to which I shall presently call your attention, and very important you will find them to be.

Then as to the marks of the smallpox there is a similar conflict of testimony. If Arthur Orton was marked with smallpox the defendant cannot be Arthur Orton. The witness Page says his business lies among the shipping; that he knew the Ortons, and saw Arthur daily; spoke to him many times, and that, too, down to the beginning of 1852, just before Arthur Orton went abroad. He says he remembers his being marked with red spots, but that proves nothing, because

although the smallpox might not be sufficiently severe to leave pit marks upon the face, yet it might leave red marks during the time of the patient's convalescence. This witness, while he remembers Arthur being marked with red spots, cannot say for certain whether the pock-marks remained. Joseph Williams, who was apprenticed to an engineer in Shadwell, and had to pass Orton's shop on the way to his work daily, bathed with Arthur and his brother about a dozen times before Arthur went to America. 'I remember,' he says, 'his having the smallpox, and could see the marks of it when he was bathing.' Another witness, who knew Arthur up to 1853 very well, and used to see him three or four times a day, says, 'I am under the impression that he was slightly marked with pock-marks.' Then Henry Steer, formerly barman at the White Swan in Ratcliffe, used to see him once or twice a week before he went away in 1852, and says, 'he was scarred with the smallpox. He had several scars, but I did not notice them when he came back in 1851.' This witness was a good deal with Arthur Orton during that year; went with him three or four times to the Exhibition, and was with him on Sunday excursions; and it certainly looks from his evidence as if the smallpox had disappeared by that time. James Cockshot, formerly in the employ of the Steam Tug Company, whose offices were opposite to old Orton's shop, knew Arthur intimately from the time he was four years old until the year 1851. His statement is, 'Arthur was pitted with the smallpox a very little. He had five or six slight spots on his face.' Joseph Mauning, who saw Arthur last in 1847, and bathed with him three or four times, says, 'I saw a mark on his hand from a cut. I did not see a brown mark on his body. He explained that he had cut himself from fright. A knife had slipped through his fingers when he was falling in the shop, and he said, "There is a scar which I shall carry to my grave."' Dr. Weston, who knew him, says that he had smallpox on the right side of the nose, 'just down the bridge of the nose. He was very slightly marked.' The next witness, Pells, the lighterman, knew Arthur Orton until 1852, had business with him, and remembers his going to sea. He says Arthur 'was slightly pitted with the smallpox,' and that it was between 1846 and 1847 he first noticed the marks. We have not, and I wish we had, the exact date when Arthur had the smallpox. Champion, the shipmaster, says Arthur Orton was roughly marked in some way or other. Pouncet says he had freckle marks, but not smallpox marks. Collingridge swore that Arthur was pitted on the upper part of the face, especially above the mouth. Thomas King says Arthur Orton was slightly marked with smallpox.

Then there are a good many witnesses who were asked the question whether Arthur Orton was marked with the smallpox and who did not remark anything of the kind. William Willes, who knew Arthur Orton, never noticed it. Christopher Dix never noticed any mark on his face at all. Abraham Bush knew him nine years before he went to sea, and never saw any mark. Eliza Spensithorne says she never noticed any marks on his face. Elizabeth Lancaster says the same thing. So it comes to this, that of all of these witnesses for the defence, fifty-eight in number, there are but five who speak as to smallpox marks at all, and seven as to the scar. Then again, there are three or four witnesses who say they never saw any scar. Billing says he knew Arthur

Orton up to 1852, and he never saw a wound upon the face. Grady never saw any scar upon his face; and Markham says he never saw it. It seems strange that seven witnesses only should speak to the scar, and five only to the marks from smallpox. If the marks were only slight it is possible that people might not have observed them. But here again it is strange that the woman to whom he paid his addresses should not have noticed them.

There are two witnesses who spoke to a bite of a pony, which would be likely to leave a permanent mark. Edward Wakeling says he knew Arthur Orton in 1851, and attended him for this bite of the pony. He says he was brought to the shop in which he was assistant, and in the absence of the principal, who is now dead, and who, as the witnesses asserted, attended Arthur Orton for the wound for a month—in his absence, seeing the wound, which he described as a large hole, sloughing, he cauterised it, and that undoubtedly the wound would leave a permanent scar. He added that he had examined the defendant's arm, and that he has no such mark. Well, if the fact of which the witness speaks could be relied upon it would be conclusive in reference to the question whether the defendant is or is not Arthur Orton. But Mr. Wakeling is about as unsatisfactory a witness as we could wish to see; or not to see, in a court of justice. He was the gentleman who had burnt the day-book and a quantity of other books, the Bible amongst them; who did not know what had become of his wife, who had been in receipt of relief from the parish. In short, he gave an account of himself so extraordinary as hardly to make him a credible witness in your estimation.

A Juror.—Did not Mr. Wakeling say he only did it with caustic?

The LORD CHIEF JUSTICE.—With nitrate of silver. I am not sufficiently acquainted with medical science to be able to say whether cauterising with nitrate of silver would or would not leave an indelible scar. However, we have had no evidence to contradict his statement. There are two or three other witnesses who prove that Arthur Orton was bitten by a pony, but then their description of the bite and its consequences falls altogether short of that of Mr. Wakeling, and would be consistent with the bite causing inconvenience for a time, but healing very soon. The witness Haywood remembers that Arthur Orton was bitten by a pony on the left arm above the elbow. He saw a red mark right round the flesh where the teeth went, and says that the flesh was torn and pinched up, but that he saw no blood. This accident happened in 1846. Now, that is a very different thing to a sloughing wound and the application of caustic to it. It is possible that the teeth of a horse in such a case might cause a pinching up of the skin; and a soreness for a day or two, which would afterwards disappear and leave no mark behind.

I now come to the evidence as to Arthur Orton not having a brown mark on his side. Now the defendant has a congenital mark on his side, and if Arthur Orton had none it follows as a necessary consequence that he cannot be Arthur Orton. But can we altogether rely upon the statements of these witnesses? Not that I am supposing that they did not intend to tell the truth, but may they not be mistaken? There are two or three witnesses who say that they bathed with Arthur Orton, and noticed no brown mark on his side. But it may have been there and they not have

seen it. When a dozen boys are bathing together and running about, one boy might have such a mark and the others not notice it. Mr. Jarvis is a more important witness in this matter. He is son of Mr. Jarvis, of Bridport; to whom Mrs. Orton brought Arthur when a boy. He tells us that when Arthur Orton was staying at Bridport he slept with him; that he has seen him undressed; that he has bathed with him many times; but that he never saw any brown mark at all. Now, if that be so, the defendant cannot be Arthur Orton. These are the principal things in reference to marks to which I have to call your attention.

There are one or two circumstances which will be important in another view of this case. All the witnesses for the defence agree with the prosecution that Arthur Orton had St. Vitus's dance. You may consider that as established beyond all question. Again, there is evidence of the fact of Arthur Orton being in-kneed, and when I come to another part of the case I shall have to compare the personal appearance of Arthur Orton with that of the defendant and with that of Roger Tichborne. We will take the three in juxtaposition, for the description of the Wapping witnesses of Arthur Orton on the subject of his being in-kneed agrees with that given by the Carabineers of Roger Tichborne; and then we shall see how far they agree or disagree with the personal appearance of the defendant. Another matter for consideration is the way in which the St. Vitus's dance attacked Arthur Orton, first of all producing effects in the limbs and afterwards in the face, leaving a twitching which included the eyes and eyebrows. That, again, is a matter which we shall have to deal with when we come to consider the three personages in this case—viz. Arthur Orton, the defendant, and Roger Tichborne. You may, however, take it for granted that there is a strong body of evidence on the part of the defendant to prove that he is not Arthur Orton. His witnesses are—I won't say all of them, but most of them—respectable people, who gave their evidence in a way which entitled them to respect; and, if I except Miss Loder, they appear to be as competent to form an opinion as the witnesses for the prosecution; and then, secondly, they say that Arthur Orton had those distinctive marks which the defendant has not. And from this conflict of testimony, if it rested there, in a criminal case, where the prosecution have to make out an affirmative and to show you that the defendant is Arthur Orton, it would be extremely difficult to say that there was not great doubt hanging over the case. But we have to assist us in this inquiry facts which may be sufficient to turn the scale.

Now, we know that Arthur Orton, in the year 1848, being then 14 years of age, left England in the bark Ocean for Valparaiso, and that he arrived there in the summer of 1848. We know that he remained on board the ship until June 1849, the vessel being engaged in making coasting voyages in those seas, and that in June 1849 he deserted from the ship. We know also that not long after that he made his appearance at Melipilla. Now, then, we have as a positive certainty, as a fact not in controversy at all, that the defendant was at Melipilla. He tells us so himself; and that it was from his residence at Melipilla and his intimacy with a person named Castro, that he was led to assume the name of Tomas Castro. We have that proved beyond doubt. It is an undoubted fact that Arthur Orton was at Melipilla. In his original affidavit in Chancery the defendant stated

as follows, speaking of his arrival in Australia, and his receiving an offer of employment from Mr. Foster, of Gippaland:

'For family reasons I assumed the name of Tomas Castro (after that of a friend named Don Tomas Castro, whose acquaintance I had made at Melipilla, in Chili).'

And, in re-examination by his counsel, before Mr. Roupell, at the Law Institution:

'I had, before I changed my name to Castro, known intimately a person so named. His Christian name was "Tomas." I had known him in Melipilla, which is about 50 or 60 miles from Valparaiso. I was his guest for a while at Melipilla, which is in Chili. There are no hotels in Melipilla, and he kindly invited me to stay with him, which I did for about three weeks.'

Now, was Roger Tichborne there? Because, if Arthur Orton was there and Roger Tichborne was not there, although it does not necessarily follow that the defendant is Arthur Orton, we are advancing very far towards that conclusion. I have already mooted this subject when following the track of Roger Tichborne in South America; and I called your attention to Roger Tichborne's letters, which show one thing as quite certain, and another thing as very probable. Throughout the whole of his letters, however minute the details of his travels, there is no mention of Melipilla. In the second place, it is not certain, but still probable, that according to what would appear to be the proper construction of his account of his return journey from Santiago to Valparaiso, he could not have stopped, and did not stop, at Melipilla. You remember the account he gives of having left Santiago, in order to be in time for the sailing of the Pauline, and that when he arrived 'there' he found the vessel would not sail for some time. I have asked you already the true interpretation of these words—whether they did not mean to imply that when he arrived at the place where the ship was, namely, at Valparaiso, he found that she would not be ready to sail for some time. It stands, therefore, thus: That in the whole of the correspondence of Roger Tichborne there is not only no mention of Melipilla, but there is an account given of himself by which we should infer that he never stayed at Melipilla at all, and that the statement that Roger Tichborne was ever at Melipilla rests entirely upon the unsupported assertion of the defendant. If, under these circumstances, you find that the original account given by the defendant is wholly inconsistent with possibility and with the unquestioned facts, the question arises whether you can attach any importance whatever to the statement he so makes.

I showed you on a former occasion that if Roger Tichborne had gone to Melipilla, it could only have been on his return journey from Santiago. His first intention was to go on to Peru in the Pauline; but he found that she would not be ready to sail for some time, and he determined to make an excursion to Santiago. He went to Santiago, and stayed there for three or four days. Then he came back to Valparaiso, expecting to find the vessel ready to start, but it was not ready for some time afterwards. He went in the vessel northwards to Arica, thence to Peru, and afterwards to Guayaquilla, and ascended the river of that name. He came back to Lima, and returned by steam to Valparaiso. There he arrived on his return from the north on the 12th of December 1853. On the 18th of March following he writes:—
'I remained a few days at Valparaiso. As soon as I was able, I left for Santiago, where I w

obliged to remain some time to make all the preparations necessary to cross the Cordilleras. I was able to leave the town on the 11th of January. . . . We reached Mendoza. . . . The distance between Santiago and Mendoza is 78 leagues. We were eight days performing the journey. I remained a week at Mendoza. I left for Buenos Ayres, which we reached on the 13th of February, after having performed a journey of 400 leagues on horseback. I shall go in a few days to Montevideo, on my way to Brazil.'

On his first going to Santiago, he took but two days to do it. The second journey he performed on horseback in an almost incredibly short space of time, and he could not have on either occasion stopped at Melipilla. If he stopped there at all, it must have been on the second return journey to Valparaiso.

If the defendant had at first given that account, it would not have been open to all the objections which apply to the account he did give. When the defendant was first examined on the subject, he was wholly ignorant of the fact—or, if he was Sir Roger Tichborne, had forgotten it—that Roger had made two journeys to Santiago. That clearly results from the examination I am going to read to you. He knew of but one journey, and he put the visit to Melipilla as being made on the way from Valparaiso to Santiago. He is examined by Mr. Chapman Barber:

'How long did you stay at Valparaiso?—Five weeks. Where did you go to from Valparaiso?—To Callao. Did you go to Lima?—Yes. Where did you go to then?—Into the interior shooting. Where then?—To Valparaiso, and from there to Cassablanca. Where is that?—A short distance from Valparaiso. From there where did you go?'

Observe the answer—

'I suppose you don't want me to give you the name of every small town I went to?—No. Well, I went from there to Santiago.'

You see he traced his journey first to Valparaiso, then to Lima, and then from Valparaiso to Santiago, Mendoza, and Buenos Ayres, and so it stood; but in his cross-examination the defendant said, upon being asked how he came to adopt the name of Castro, that he took it at Melipilla. Mr. Serjeant Ballantine, with the view of making this part of the case more clear, asked him in re-examination:

'You stated, in cross-examination, that you took the name of Castro. Had you known any one of that name?—Yes. And been intimate with him?—Yes, very. What is his Christian name?—Thomas. Where did you meet him?—At Melipilla. Where is that?—About twenty-three leagues from Valparaiso. Had you seen much of him?—I stayed with him for a while at Melipilla. How long?—About three weeks.'

And so the examination stood. But when the examiner came to read the requisitions, he saw these words: 'From thence I went to Santiago, and from thence to Mendoza.' The defendant interposes, and says, 'I beg your pardon, but I wish you to take notice that the counsel said he did not require me to give the names of all the towns I went through; and, therefore, I omitted Melipilla.' It is a curious thing that Mr. Barber did not ask him anything specific beyond this, 'Where did you go to next?' To which the defendant answers, 'When I started from Valparaiso, I went to Casa Blanca.' Then comes the question, 'Where did you go to next?' to which the defendant should have answered, 'Melipilla,' but he avoided Melipilla,—that is, to use a sport-

ing phrase, he 'shied' at it, when he came to Melipilla, and turning round said, 'I suppose you don't want me to mention every small town?' Whereupon the defendant omits Melipilla. When the examiner comes to look over the requisitions he finds that the acquiescence of Mr. Barber in the course of the examination was the result of the suggestion of the defendant and not of any direction on the part of the learned counsel. The deposition was then amended and these words inserted:

'I stayed about five weeks at Valparaiso the first time I was there; from thence I went to Callao, from Callao to Lima, thence into the interior, went back to Valparaiso, then to Casa Blanca, a short distance from Valparaiso. I went to Santiago *via* Melapilla, thence to Mendoza, from Mendoza to Santa Fé, thence to Buenos Ayres, thence to Montevideo, and thence to Rio.'

So that it is perfectly plain that there was but one journey from Valparaiso to Santiago in his mind, and that it was upon that journey he went *via* Melipilla to Santiago, whereas we know that it was only upon the return from Santiago to Valparaiso on the second occasion that Roger Tichborne could by any physical possibility have stayed at Melipilla at all.

At this time the defendant had no means of knowing this except through the letter of Roger Tichborne to his mother, in which mention is made of his going back from Santiago to Valparaiso. But Moore, who was present at the examination, was the servant who accompanied Roger Tichborne on his way from Valparaiso to Santiago upon the first visit, and who knew that Roger Tichborne did not upon that journey stay at Melipilla, and who knew also that upon the second journey to Santiago, Roger could not have stayed at Melipilla. Accordingly, when the defendant is examined on the point, he puts it as the thing would have been if Roger had really gone to Melipilla—that is, he puts Melipilla on the return journey from Santiago to Valparaiso, when Roger Tichborne went on the excursion consequent upon the Pauline not being ready to sail. That is a very striking discrepancy, and it was one which of course was referred to in the defendant's cross-examination in the Court of Common Pleas. He is asked:

'How long were you at Melipilla?—The carriages went on to Valparaiso. The first night the carriages were put into the yard at the back of Castro's place. How long had you intended to stay at Melipilla?—A few days. How long did you, in fact, stay in the neighbourhood without going back to Valparaiso?—Over a fortnight. I cannot say exactly how long. How came you to do that?—Because the ship did not sail as soon as was expected.'

Then he is asked how he knew that, and he says he had a letter from the captain of the Pauline in reply to one he had written inquiring when that vessel would sail. The discrepancies being pointed out to him between his original statement and that he then made, he said that the shorthand writer had put down the words 'journey to,' instead of 'journey from' Santiago; but he is here met with the notes of the examiner, who did not write shorthand, and whose note concurred with that of the shorthand writer. But the statement of the defendant was also inconsistent with the fact that Roger Tichborne could not have stopped at all at Melipilla on that occasion, or that even if he could—he would be able in two or three weeks, and three weeks as the outside limit—he

could have become intimate with the number of persons with whom the defendant undoubtedly became acquainted, as appears by the Castro correspondence.

Now, as I said, that Arthur Orton was at Melipilla there can be no doubt. He deserted from his ship in June 1849, and joined the Jessie Miller at Valparaiso a year and seven months after, in February 1851. What became of him in the meanwhile? A witness named Cotton said he saw a person named Orton during that interval herding sheep in California, 4,000 miles to the north. You remember that more than one member of the Orton family has disappeared; of the history of one named Robert we have had no account, and that is matter of regret. That Arthur Orton was at Melipilla during some portion of the interval we hear from the evidence of Dona Clara Hayley, the wife of an English medical man. She swears that a sailor-boy of about 16 years of age came to them with a pitiful story of ill-treatment by the captain of his ship, that he was taken into her husband's house, that he told them his father was a butcher to the Queen in London, and that his name was Arthur Orton. He said he had three sisters—Maria Anna, Marguritta Anna, Matilda Anna, and that he also named Elizabeth. I understand that there is no Spanish form of the name of Elizabeth. Mr. Moriarty, who is, I hear from the Master, a Spanish scholar, will, perhaps, inform us how that is.

MR. MORIARTY.—Isabel, my lord, is Spanish for Elizabeth.

THE LORD CHIEF JUSTICE.—O! Dona Hayley thinks he mentioned Elizabeth, and he said one sister was dead and that three were living. She states further that he was at Melipilla for about a year and a half, and that she saw a mark on his arm—two letters—which she made inquiry about, and he said they were A. O., the initials of his name. She tells us that Orton got intimate with the Castros and others, and was kindly and hospitably treated, and that Dona Ahumada cut off a lock of his hair. In that she is supported by an admission of the defendant, which, however, he afterwards withdrew. Her evidence is open to this difficulty unquestionably, that she puts the date at an impossible time. She was married, she said, in 1847, and this residence of Arthur Orton was five or six years after her marriage, whereas we know it must have been before February 1851. She is no doubt open to that observation as to a serious discrepancy in the dates. Notwithstanding that, however, a person may, after all those years, be mistaken as to a date, and a date may not be of the essence of the inquiry as it so often is. It is not so always, and if she is right as to the main facts of her narrative it would not be important that she should fix the date. There is one part of her statement, if you believe it, by which we may correct the error in the date. She says most positively there never was an English visitor in her house with the exception of Arthur Orton; and she goes on to say, touching the very essence of this inquiry, that the defendant is the Arthur Orton who resided at her house in Melipilla.

She may be dishonest or she may be mistaken. Is she dishonest? The learned counsel for the defendant makes the same observation upon her that he did upon Mrs. M'Alister—namely, that she received 1000 dols. or 250*l*. That is, no doubt, a large sum to give a witness; but we must remember she came from and had to return to South America, and you can understand a witness say-

ing, 'I will not leave my husband and family and go to England on a matter which does not concern me unless you pay me handsomely for doing so.' She could not be compelled to come. She was beyond the jurisdiction of the Court, and you are at the mercy of witnesses so circumstanced. But you have the means of checking her evidence, for both she and Mrs. M'Alister were examined by commission for the last trial, and though their evidence given before the commission could not be read in this case by the prosecution, it could be used on cross-examination for the purpose of contradicting her if she could be contradicted. Now, is she mistaken? She is strongly supported by the fact that the defendant was intimate with the Castros by the admission as to the cutting of the lock of hair by Dona Ahumada, and by still stronger evidence—that of the Castro correspondence. She may, however, be mistaken as to the identity of the defendant after so many years, during which probably the name or features of Arthur Orton were not present to her mind, and very likely she comes here with a preconceived opinion and a foregone conclusion on the subject. There is one fact that must not be lost sight of—namely, that the defendant was called upon to face Dona Haley and the other Chilean witnesses, and he did not do so. Whether his explanation of that fact be satisfactory it is for you to say. If it be not it is a strong fact in confirmation of a witness who comes here to speak of the history of Arthur Orton's residence in Melipilla—for the defendant might have presented himself not only before her, but before the other witnesses, who I cannot but believe if there were a public prosecutor who had the uncontrolled direction and management of this case would undoubtedly have been called. He had an opportunity of confronting those witnesses, and he did not do so.

Now, we have letters which throw light upon this part of the case. When under examination before Mr. Roupell, the defendant explained why he had taken the name of Castro. The attention of the defendants in the Chancery suit was of course at once directed to Melipilla, and they proceeded to make inquiries there. Probably the defendant concluded, or heard, that such inquiries would be made, and whether with a view to get from the people at Melipilla a recognition of the fact that he had formerly been staying there, or to anticipate the movement of the opposite party, I do not know, but whatever the object he set down and wrote a remarkable letter to Don Tomas Castro. You have the letter before you. He first wrote a draft of it—that was translated into Spanish and forwarded, and the Spanish letter was translated back into very different English from that in which the original draft was written. I have got the original draft before me. It runs thus:

'Aug. 28, 1867.

'Dear Tomas Castro,—I suppose I am about the last person in the world you would expect to receive a letter from. But the fact is I have just returned to England—that is to say last Dec.—and I have neglected to write to my friends for some years. I have grown very stout; nearly so as Raymond Ozago. I found when I arrived in England my property was and is in the possession of my relations, who dispute my title. Those all beautiful estates that I used to tell you of are kept from me until I prove that I am the same person I was 13 years ago. Please remember me to Don Juan Halley, the English doctor, and to Clara Jesusa. My respects to Dona Natalia Salmento

or, as I used to teach you to call her, Mrs. Castro. Please remember me also to Don Ramon Alcalde, Dona Hermentrude, and my old companion, as I used to call him, Lemmeter Metildo, and also to José Maria Penniger and his brothers. Would you show this letter to them and ask them all to write a few lines to me, and also, if not too much trouble, to my solicitor, Mr. John Holmes. It is very hard for me to be kept out of my estates, so I must, therefore, beg you to help me all you can. Really I am forgetting one old friend altogether. I mean Mr. Toro, Don Jose, your wife's sister's husband, of Cangomod, and a rather strange thing I have to tell you—that is to say, I took and made use of your name, and was only known in Australia by the name of Castro for the 13 years I was there. I also said I belonged to Chili; they might have known better than that. I assure you I did not disgrace your name in feats of horsemanship. I hope you will give my agent all the information you can when he calls, and if possible see Don Carlos Anselmo, of Valparaíso; he will explain to you anything you do not understand. Hoping, my dear Friend, wife and friends and self are quite well, I remain truly yours,

‘R. C. D. TICHBORNE.’

Well, that letter brought an answer, not from Thomas Castro, because he had become insane, but from his son, Pedro Castro. This is the letter:

‘Melipilla, Oct. 27.’

‘Dear Sir,—I acknowledge the receipt of your esteemed favour, dated the 28th of August of the current year, in default of my father, Don Thomas Castro, who, since you left Chili, unhappily lost his reason, and is now in the Casa de Orates of Santiago.

‘My mother, Dona Natalia Sarmiento de Castro (Mrs. Castro, as you call her); has not been living for the last 14 months or so; my godfather, Don Ramon Azocar, whom you name Osaza, and Don Ramon Alcalde, all three died of a natural death. But Dona Maria Lagos, widow of my said godfather, remember you.

‘I showed your letter to Don Juan Hayley, the English doctor; and to his wife, Dona Clara Nories. The former retains no recollection of you. It is true that owing to intemperance his memory is gone; the latter does, and is ready to declare so. Dona Jesus Nories, sister of Dona Clara, is dead.

‘Don José Maria Berenguel is not so called; his name is Don Francisco Berenquel; he is established in Santiago; and Don José Miguel Valdivieso, to whom you give the title of brother of the latter, is at the present time Regidor of the municipality of Melipilla.

‘Directly he read your letter he went into an account as to who you were; of your stay in this place, &c., expressing great pleasure at hearing from you.

‘Your friend Don José Maria Toro, whom you call Mr. Toro, is also established in Santiago. Don Pedro Pablo, his brother, still resides in Concepcion.

‘Dona Francisca Ahumada, the mother of the Ayocares, retains a lock of your hair. I recall this fact to your attention in case of your being able to turn it to any account.

‘As I cannot myself go to Valparaíso, owing to various circumstances, I have written to Don Carlos Anselmo telling him, in default of my father, that I was ready to furnish the data which you desire at my said father's hand.

‘I must advise you that the other side, through the instrumentality of Don Cevero Barra, has

been hunting up data respecting your stay in this town. He did not choose to give the names of the English firm in Valparaíso who had instructed him.’

The defendant answers this letter on the 1st of January 1863, in the following terms:

‘January 1, 1863.

‘My esteemed Don Pedro,—On the 18th of last month I received your letter of the 29th of October last, and regret to hear of the malady of your father. I did not remember you when I wrote to your father, but I now remember you very well, as well as your brother Don Thomas and your sister Dona Natalia. I wish you to beg Dona Francisca Ahumada to send me a small portion of the lock of my hair which she has kept. Be good enough to remember me to all my friends.—Yours, &c., R. C. D. TICHBORNE.’

To this letter Don Pedro Castro sends the following reply:

‘Melipilla, Feb. 28, 1863.

‘Esteemed Sir,—I have in my possession your favour of the 1st of January of the current year; which you have been good enough to write to me in reply to mine of the 29th of October last year. An agent has come over to Melipilla on behalf of your opponent. His name is Cevero Barra. His first step was to seek out your certificate of baptism, because some one told him you had been baptised there by the priest Don Fernando Barrales. He could not, however, find it, but I know he had interviews with that gentleman, with Dona Clara Norris de Hayley, and Dona Francisca Ahumada. He afterwards called on me, in order that I should show him and give him copies of the letters you had written to me, telling me that he had instructions to place at my disposal a money remittance, and offer me a berth in Valparaíso. He did not attain his object. On the occasion of another journey which he made to Melipilla, I, having recently received the first letter from you intended for my father, and believing him your agent, showed him the said letter. Barra endeavoured to make out that you were an impostor—that Mr. Arthur Horton, who was staying here, was the son of a London butcher, whose father had sent him to sea in order that he might, by means of sea voyages, cure himself of a disease in the head called San Vito; that in the year 1853 he returned to England, whence he came back to America; that Sir R. C. D. Tichborne, finding himself in the year 1852 in a certain part of England in command of his regiment, threw it up, and likewise came over to America; that after travelling about he embarked at Rio Janeiro on his return to England on board a vessel that was wrecked before reaching her destination; that on board this vessel there happened to be Mr. Arthur, likewise shipped as a passenger; that he made his acquaintance and got possession of his papers, and that Mr. Arthur then went to Australia to await there the death of Sir Roger C. D. Tichborne's father, in order to present himself in England and claim the inheritance. Bring all this to the knowledge of your worthy defender. This story of your being the son of a butcher (*carnicero*) in London springs from the fact, probably, of your wishing to say that your father was Chancellor (*canciller*) of the Queen, and that, being ignorant of Spanish, you having scarcely then begun to speak it, having recently arrived here, you said he was a butcher (*carnicero*). I shall be very pleased to possess your portrait. I send you a quarter of the lock of hair which the Señora Ahumada has of yours.’

You will see, gentlemen, that these are the letters of a man who was greatly delighted at the prospect of the approaching triumph of Sir R. Tichborne. On the receipt of that letter the defendant writes back as follows:

April 29, 1868.

'My dear Friend,—I received your letter of the 29th of February. I was not surprised to learn that the agents of the other side had called upon you, as they are capable of anything base or underhand. I have received the hair all safe; a thousand thanks. Give also my sincere thanks and respects to the Señora de Ahumada, and tell her she has done me a great service by preserving this lock of hair.'

And now comes an instance of the affidavit system, to which I have already called your attention:

'I have affidavits from more than 100 persons. Among them are seven of my brother-officers—two colonels, two majors, three captains—more than twenty petty officers, all the Tichborne tenants, and a good many of the gentry of the country round. I trust, my dear friend, that you will not allow the falsehoods of Don Cevero Barra to have any effect upon you; the truth must, and in the end will, come out. When I was at Melipilla, I wrote a letter to Dona Toro, the wife of José Maria Toro, to inquire for particulars of the house of Don Benscuta Lopes; if you could obtain that letter for me you would do me a great service. The lady to whom I refer gave me letters of introduction for Buenos Ayres. With kind remembrances to all my old friends, I remain, yours affectionately,
R. C. D. TICHBORNE.'

Mr. Holmes writes to Don Pedro Castro by the same mail:

May 1, 1868.

'Dear Sir,—I am obliged to you for your letter of the 29th February last. Sir Roger is writing to you, and will send you a photograph of himself. The lock of hair which you have enclosed to him is of considerable importance, because it is identical with his hair at the present moment.'

Now if that be true, we have the lock of hair, and it is very much lighter than the defendant's hair at the present time, and, therefore, if Holmes compared it with the defendant's hair and found it was identically the same, the defendant's hair must by some contrivance or other have acquired a deeper dye since. It may be, however, that Holmes made that assertion unscrupulously, for the purpose of influencing the people out there and making them satisfied with the identity of the defendant as Roger Tichborne, that they might write to him to that effect, or, in the event of any persons going out to receive evidence, they might be predisposed to receive the defendant as Roger Tichborne. Now what follows is most important:

'You mention that Don Barra, the agent of the adverse party, has endeavoured to produce the impression that Sir Roger was the same person as Orton. I cannot clearly make out whether you yourself personally knew Orton. Be so good as to inform me particularly whether you really knew him, or whether his name was not first mentioned to you by Barra. It is really of importance that you should inform me precisely on that point. The opposing party here have been making inquiries after a person named Orton; but I have the clearest evidence that they are distinct persons, and that Orton is now in Western Australia; and I have sent for him to come over to England. The endeavour to confound him with Orton is a piece of chicanery. I send you copies of the affidavits.'

So it appears that up to this time Holmes did not know that Arthur Orton had been ever in Melipilla. He hears that Don Barra was asserting that the Englishman who had been out there was no other than Arthur Orton, of the High-street, Wapping. But Holmes says, 'What can this man mean? Was there such a person as Arthur Orton out there? Be good enough to say in your next letter whether there was.' Now comes the answer; and to that answer I call your most serious attention. If Arthur Orton had been known out there as one man and Roger Tichborne as another, when Roger writes and says, 'I am the Englishman whom you remember at Melipilla formerly,' and Holmes writes and says, 'You tell us they are making inquiries about Arthur Orton; they say that my client is Arthur Orton, the son of a butcher. Be good enough to state whether you really know such a man,' what would be the answer you would expect? The answer would certainly be, 'We did know two Englishmen, Arthur Orton and your client, but there can be no confounding the two, for they went by distinct and separate names.' That would be the answer which a person would naturally make to such an inquiry. Now you will see the answer to Holmes' inquiry. It is this:

Melipilla, July 15, 1868.

'Dear Sir,—In reply, I have to inform you that Don Cevero Barra is the person who has endeavoured to show that Sir Roger was an impostor—that he had assumed that name in the place of his true Christian and surname of Arthur Orton, having borrowed the same in order to usurp the inheritance, and that he is the son of a butcher, and not of a nobleman belonging to the English aristocracy. No one has known here that very Arthur Orton, and although Sir Roger bore that Christian and surname, he himself communicated to Don José Miguel Valdivieso, and to other persons, that they were not his own—that he belonged to the English aristocracy, and that in England he had played with the Queen's children. I am glad Sir R. Tichborne's cause is going on favourably.—Yours, &c.,
P. A. CASTRO.'

Now that is a distinct recognition on the part of Don Pedro Castro that he made inquiries, and that Holmes' client bore the Christian name and surname of Arthur Orton and not of Roger Tichborne. What is here said is in accordance with the statement of Dona Hayley—that the only Englishman who was ever there was one single individual. That letter recognised that he bore the name of Arthur Orton, and has no mention to make, and no report to give, that any one was there under the name of Roger Tichborne. Unless we can suppose that Roger Tichborne, while he was there, assumed the Christian name and surname of Arthur Orton, for which no imaginable motive can be assigned—and we do not know that Roger Tichborne ever heard of the name of Arthur Orton—how can we reconcile the statement made in that answer to Holmes' specific inquiry with the facts, except by coming to the conclusion that there was but one Englishman out there?

What is the result? There is but one issue. If we look to Roger's own letters, and to the fact that the only Englishman out there went by the name of Arthur Orton, we must come to the conclusion that Roger Tichborne was never there, and that the defendant was. It is not conclusive to show that the defendant is Arthur Orton; but then, as I have more than once said, it would take us a long way indeed towards that conclusion; and then, when you look at the other side

circumstances, you must consider whether the conclusion thus partially arrived at does not become conviction. That first letter of the defendant's to Thomas Castro shows that the writer had numerous acquaintances in Melipilla, that his acquaintance had advanced to a considerable degree of intimacy, sufficient to impress upon his memory the names of no fewer than 13, 14, or 15 persons; and that he had been visiting at their houses; and then comes the very material fact that Roger could only have been there, if there at all, for a period of two or three weeks. Would such a period suffice for the purpose of making those acquaintances and contracting that degree of intimacy? But there is not, as I have shown, the alternative of Roger Tichborne having been there for a period of three weeks and Arthur Orton a year and a half; and, as my brother Mellor reminds me, if Roger Tichborne had been at Melipilla for a year and a half, would not his name have become known?

And now comes the question of the look of hair. Did Dona Ahumada cut off a lock of hair from the defendant's head? If she did, and if the hair sent home is that hair, the case is at an end.

(Two different portions of hair were here handed to the Lord Chief Justice.)

Now, if that was cut off from the head of the defendant, and the defendant is Roger Tichborne, it could not have been cut off earlier than 1853, because Roger was not at Melipilla, if he was there at all, until 1853. But here is the hair of the undoubted Roger Tichborne, cut off by his mother from his head in 1852, and endorsed by her own hand, 'Roger's hair, 1852.' Now, that hair (the hair sent home from South America) might in process of time have become of this (the darker) colour; but hair of this colour (Roger's) never could in process of time have become like that (the lighter-coloured hair). I take it as perfectly proved that hair in the mass looks darker, and that hair when oiled will for the time have a darker appearance. But I pass that by, and I come back to the position that if this hair (the hair sent home from South America) was ever cut off from the head of the defendant, he cannot be Roger Tichborne. As years advance, the hair of a boy or a youth gets darker, until it assumes its regular colour. But the hair cut off from Roger Tichborne's head in 1852 could not have become that (the lighter) colour in 1853. Now, that is as clear as the sun shines. The Master reminds me that we have another lock of hair which was given to Lady Radcliffe in 1853. If that light hair is the hair sent home by Dona Ahumada, it could not have been the hair of Roger Tichborne.

(The different portions of hair were at this point handed to the jury for inspection.)

Now, gentlemen, comes the question, did Dona Ahumada cut off a lock of the defendant's hair? If she cut off a lock of the defendant's hair, there is not only the circumstance that the dark hair could not have become hair of a light colour; but there is this additional circumstance, that the man from whose head it was cut off must have been longer at Melipilla than two or three weeks. And then there will arise some question about age; for it is a very different thing to cut off a lock of hair from the head of a young lad and from the head of a young man who has been an officer in the army. A lady does not say to one whom she has seen only two or three times in a fortnight, 'Let me cut off a bit of your hair and keep it.' It presupposes a degree of intimacy to do that. But we can readily suppose that the hair was cut from

the head of a person who had been staying in the place for a year and a half.

If we are to judge by the correspondence of Holmes and the defendant with Pedro Castro and Rous, there is the clearest possible evidence that Dona Ahumada did cut off this hair, and that the hair is the defendant's. But then the defendant boldly asserts that there was no hair cut off his head at all. It is right that circumstance should be brought before you, because this is one of the crucial points of the case. It is a crisis in the case. If that hair was cut off the head of the defendant, he cannot be Roger Tichborne. But if the defendant can repel the notion that any hair was cut off, or that the hair sent home was not the hair, then the whole conclusion falls to the ground. It was admitted by Serjeant Ballantine, the defendant's counsel at the former trial, that the lock of hair produced was the hair received by Mr. Holmes. The defendant is cross-examined on the subject thus:

'Is that the hair?—No, I doubt it is the same hair. I received it from Mr. Holmes. I gave him authority to open my letters. He said to me, "Do you remember a lady in Chili cutting a lock of your hair off?" I said, "No, I do not." He said, "O, nonsense." I said, "Certainly not." He said, "Do you not think somebody cut a lock of your hair off?" I was not certain whether any one had done so or not. I could not say, and the letter I wrote back was a letter I believe partly dictated by Mr. Holmes, and so there it is. Was not this true—"My friend, I wish you to beg Dona Francesca Ahumada to send me a small portion of the lock of my hair which she has kept?"—Yes, I think you will find that was the part dictated by Mr. Holmes. Do you mean to say that Dona Francesca Ahumada did not cut off a lock of your hair?—I have no recollection of ever knowing her. You have no recollection of ever knowing her?—No, nor her name either. Do you mean to say that she did not cut a lock of your hair off?—Yes; I mean to say she never cut a lock of my hair off. Then, why did you say that you wished to beg Dona Francesca Ahumada to send you a small portion of the lock of your hair which she has kept?—Because I was persuaded by Mr. Holmes that somebody must have cut a lock of my hair off. You believing that it had never been cut off at all?—I could not say. For what purpose did you want the lock of hair that Dona Francesca Ahumada had kept, and that she was to send home—for what purpose?—Why, to have a look at it. And what did you mean by giving your sincere thanks and respects to the Señora de Ahumada, and telling her that she had done you a great service by preserving that lock of hair?—I was not to know whether it was my hair or not: any one might have cut a lock of my hair off unbeknown to me. Did you believe it to be your hair?—When I saw it. When you wrote that letter to the Señora, you sent back that message?—Probably, for from the letter I had from Castro I thought it was my hair. Did you think it was yours?—There is no doubt! at the time I did think it was mine. Do you now think it is yours?—No, because I have read the evidence and find it was not mine. You find that it was cut from the head of Arthur Orton, do you not?—Yes, I do. . . . What did Mr. Holmes mean by saying it was of importance because it was identically the same as his hair at that moment?—There is no doubt he believed it was my hair. Did you say a word to lead him to doubt it?—Yes, I told him that no one had ever cut a lock of hair from my

head. Why did you write as you did?—I was advised to write that letter. And when you wrote your thanks for the hair, he knew that no hair had been cut off?—Yes. Now, attend to this. On the 20th of April 1868, you wrote to Rous, "We have received a letter from Don Castro of much importance, as he has sent part of my hair." When you wrote that did you doubt that it was your hair?—No, I do not think at that time I doubted it. I thought it probable that some one might have cut a lock of hair off. I did not remember it.'

Well, gentlemen, it is to be remarked that when Don Pedro Castro mentioned the lock of hair, the defendant at once responded with avidity to the suggestion that he should send him a portion of it, and on having received it, he sends his grateful thanks to Don Pedro Castro and to Dona Ahumada for the service they had done him in sending it. He also writes to Rous, 'I have received another important letter from Castro, in which they send a lock of my hair.' But then he says he wrote the letter thanking Don Pedro Castro for the lock of hair at Holmes' dictation. But he does not dispute that Holmes compared the lock of hair with his own, and that it was like it. It will be for you, gentlemen, to form your judgment from all the circumstances of the case.

The defendant calls two witnesses to prove that they knew Roger Tichborne when he was in Chili, that they recollect him, and that the defendant is Roger Tichborne. One of those witnesses is a Mr. Bingley, who says that he saw Roger Tichborne when he was at Santiago on both occasions residing at the English hotel. He did not make Roger's acquaintance, but he used to dine at the *table d'hôte*, and he says that he saw Roger Tichborne there, and that the defendant is positively Roger Tichborne. He wrote to the defendant's counsel on the subject, and the result was that the defendant went down to Edgbaston to see him. He did not recognise the defendant at first, but upon the defendant saying 'Tich,' Mr. Bingley said 'Tichborne,' and 'when the light was favourable I saw,' says Mr. Bingley, 'there was no doubt about his identity. He was the gentleman I had seen at Santiago of the name of Tichborne.' But in cross-examination, when he was shown the daguerreotype of Roger Tichborne taken in Chili, he was not able to recognise it, nor was he able to give a description of any single feature of Roger Tichborne's face. His recollection of the man, he says, was a recollection of the general cast of countenance by which he recognised him. Then he had a conversation with the defendant, and he asked him, 'Do you recollect Mr. So-and-So?' and the defendant said he did. But if you ask a person whether he remembers A., B., or C. nothing is easier than for that person to say that he does, whereas the proper course would be to ask him to tell you the names of some persons out there. He asked the defendant whether he knew a Mr. Sherriff. The defendant's memory, he says, seemed defective, but when he told him that Mr. Sherriff was engraver to the Mint, then he said, 'O, yes, I recollect him very well.' He remembered, Mr. Helsby, the photographer, but then his name had come up as a photographer on the trial. He also remembered a person named Carl, a German, a great linguist, and that is so much in his favour. Then he remembered Appleby and others. Where he could have got Appleby's name, unless from his own unaided memory—except it was from Moore, who

at that time was brought into connexion with him—I cannot say. It is in the defendant's favour that he did remember those persons, and it would go to show that he had been at Santiago. Then he was asked whether he remembered the square, the cathedral, and the dismantled fort on the hill, from which a gun was fired in the evening, and he did. The defendant himself asked Mr. Bingley about a building with a peculiar kind of round roof, and Mr. Bingley told him that was the observatory. Then he told the witness about various places which he had been in, such as Lima, Arica, &c., but Mr. Hawkins suggested that all this knowledge about Santiago, its walks, hill, and so on, might have been acquired from any gazetteer. Then this observation occurs to me. Inasmuch as Arthur Orton remained on board the Ocean for twelve months after he got out to Chili, it is not at all impossible that vessel should have made a voyage to Arica and put into port there. The other witness is the sister of Mr. Helsby, the photographer, who says she saw the defendant in the street, and was struck at once by his manner of walking, one knee bending in, and she believes the defendant is Roger Tichborne. She says she remembers that he went out shooting at Santiago and brought home a dingo. That is the whole of the evidence adduced on the part of the defendant with respect to South America.

But then the defendant's counsel asks how can this be other than Roger Tichborne, seeing the knowledge he displays of Roger Tichborne? No doubt it is perfectly true that he does show considerable knowledge of Roger Tichborne, and does follow his footsteps in his wanderings in South America. This would be very wonderful did we not know that the letters of Roger Tichborne to his father and mother have been preserved—we have got them here—and those letters give an account of the proceedings of Roger Tichborne step by step through the whole of his wanderings. Therefore there would have been no difficulty in the defendant procuring his knowledge from those letters. He had full and ample means of consulting them, and of course, if he wanted to make up a story, he would consult them. But then, says the learned counsel, 'There is one important statement which he could not have derived from any such source, and that is about the mule accident.' That is perfectly true; the letters from Roger Tichborne to his father and mother do not contain the narrative of that accident. But then you have it set out in the journal, an extract from which he sends to Mrs. Seymour and Lady Doughty, and in a letter to his mother he writes to say, 'I have not time to send you now an extract from my journal, but I will as soon as I have time.' Therefore it is natural to conclude that he did so. Moreover, it is my duty to point out that in his account of the accident to the mule the defendant makes two serious mistakes. The accident to the mule happened in crossing the first chain of the Andes; the defendant represents it as having occurred in the second. Roger expressly says, the mule having fallen some 50ft. or 60ft., 'we all three' went down to where the mule was—that is, Roger, the servant, and the guide. But the defendant says, 'The guide and I went down. Jules Barras refused to go down [he was a witness against him], and he and I had words about it.'

But that is not all. There are two or three very serious mistakes with reference to Roger's life in South America. In the first place, the defendant says that when he arrived at Valparaiso

he was informed of the death of his uncle by letters from Gosford and his father; but the only letter he received there was from Lady Doughty; because, writing to Gosford in 1854, Roger complains that he never received a letter either from him or his father, and he says, 'I have written to him again and again, and have never received an answer.' The defendant also forgets the letter Roger wrote to Mr. Slaughter about the alteration in his will, in consequence of Everard Arundell having become a priest. But, apart from the mistakes which I have pointed out, the defendant's account does certainly agree with the narrative of Roger.

There is one important point. Before we come to the conclusion that the defendant is Arthur Orton there is an apparent difficulty in the way, and it is this. It may be asked—I am not sure whether the learned counsel for the defendant used this argument, but it has occurred to me,—how is it possible that Arthur Orton, an uneducated Wappingite, who probably never heard of the tenets of the Roman Catholic religion, should have ever known anything about them? How, when he wrote to Lady Tichborne from Australia, 'May the blessed Maria have mercy on your soul,' did he know that, according to the tenets of the Roman Catholic faith, the Virgin has power in heaven as Mediator? This circumstance does startle me, but the solution, I think, may be found in the fact that Arthur Orton, when in South America, did become a Roman Catholic. It is quite possible that Arthur Orton was wily enough to know that the best way to ingratiate himself with the inhabitants was to turn a Roman Catholic. They are strong Catholics out in these parts, and a heretic is, in their eyes, only very little removed from something else. It would have had a wonderful effect, therefore, if Arthur Orton were to say, 'I like your religion. It is much more to my liking than the religion of the chapel I used to go to at Wapping.' They would say, 'We shall be very happy to receive you, but you must be baptised.'

You will naturally ask how I draw such an inference. I don't know whether it escaped your observation, but it is a fact that when Arthur Orton shipped on board the Jessie Miller to go home he did not ship in the name of Arthur, but of Joseph M. Orton. What does Joseph M. mean? What does the M. stand for? I suggest 'Maria.' There is no doubt that it is the same Arthur Orton who signed 'Joseph M.' This is admitted. But when he came to London he was Arthur Orton again. The change of religion had served his purpose, and the new name was consequently dropped. Nothing is more common abroad than for a male to be baptised in addition to some ordinary Christian name with the name 'Marie' or 'Maria.' There is a familiar instance in the case of Jean-Marie Farina, and one of the gentlemen who received Arthur Orton in his house was Jose Maria Toro. If, therefore, Arthur Orton was rebaptised, Jose Maria Toro was very likely to be his godfather. When Arthur Orton signed the name 'Joseph M.' he would have been the laughing-stock of the sailors on board if he had written 'Maria.' I don't think Catholic Englishmen take 'Maria' in addition to their ordinary Christian name. Well, when Arthur Orton was admitted into the Roman Catholic Church he would immediately learn as one of its initiatory tenets about the power of the Virgin as a Mediator, and that would account for his writing to Lady Tichborne, 'May the blessed Maria have

mercy on your soul.' The Castro letters imply, though we have no proof of the fact, that Arthur Orton had been baptised in South America, and Dona Hayley was going to say something about it when I interposed, because it was only hearsay.

We have now ended the Arthur Orton case as far as South America is concerned, but, of course, the Arthur Orton case does not end here, because the Arthur Orton of South America is alleged to be the Arthur Orton of Australia. We must therefore follow him to Australia, and see how far the facts connected with his existence there lead us to the conclusion that the defendant is Arthur Orton or that he is not. We know that Arthur Orton left Valparaiso in the Jessie Miller and came back to London, that he arrived here in the middle of the year 1851, and that he stayed at Wapping till November 1852, when he sailed again in the Middleton. It is not necessary to dwell on the circumstances of his life during that time, with one exception—namely, that after his return from South America, as well as in his earlier days before he left England, he was engaged in his father's business, assisted in his father's shop, and used to carry meat to vessels in the river. Subsequently, Arthur Orton went out to Hobart Town. He arrived there in the early part of the year 1853, and we hear of him not only through the letters which he wrote home—one to Miss Loder, and the other to his sister Mary Anne—but also through the evidence of two or three witnesses. For instance, Allen, who went out as cook in the Middleton—the ship Arthur Orton sailed in—identified the defendant as Arthur Orton. Then Fox, who was at Hobart Town, professes to identify him as the man who went over in the Middleton with the Shetland ponies.

Again, a story is told by Mrs. Mina Jury. She says that from the time of his landing until August 1855, Arthur Orton was constantly at Hobart Town. In the first place he began as slaughterman to one of the butchers there. Then they got him employment with Mr. Johnson, a large station proprietor, who was also the owner of Newburn Park. He was in Mr. Johnson's employment as stock-keeper for some time. Then he came back to Hobart Town and set up a stall in the new market which had been opened there. Next we have the circumstance of his borrowing 14*l.* from Mrs. Jury, when, by mistake, she gave him a 5*l.* instead of a 1*l.* note. He gave her his promissory note, which became due on the 25th of August, but which was never realised in consequence of Arthur Orton absconding and leaving Hobart Town altogether; so that from that time until she was in court Mrs. Jury had never seen him. She goes so far as to say that the defendant is the man. He was a connection; she saw him frequently; and he went with a letter of introduction to her. Still, it is a very long time ago, and I always distrust evidence of identity unless something has occurred to fix it strongly upon the mind, or unless there are facts and circumstances in the case to confirm it. She lost sight of him in August 1855, and the next we hear of him, upon evidence more than doubtful, is from a witness who says he was upon a fencing contract, which occupied him upwards of a year and nine months, at Mr. Johnson's, Newburn Park. He says there was a man named Arthur Orton serving as stock-keeper during the time he was there; that this Arthur Orton was in the habit of slaughtering for the establishment, and that he was called the 'big butcher.' On one occasion he saw him dressing a beast, and struck by the way in which he did his work, said, 'You dress that like a trades-

man.' Thereupon Orton said he knew his business, and had been butcher on board ship, and that he had been engaged at Hobart Town by Mr. Johnson. The witness says he went away to Boisdale, eight or nine miles off, which is the Boisdale we have heard so much about in the course of this inquiry, and afterwards saw the same man at Dargo. He says he stayed at Dargo two or three months. That is clearly a mistake, because Arthur Orton was there upwards of twelve months. Next the witness saw him breaking horses at Sale about the year 1858.

Mrs. M'Allister takes up the story, and tells us she was living with her husband in Avondale, on the other side of Newburn Park. At that time her brother was employed as manager for Mr. Johnson, and one day she went to Newburn Park with her husband, and saw her brother driving cattle. With him was a man who afterwards, when she and her husband were transferred to Boisdale Station, came there, and whom she knew as Arthur Orton. Now, was the defendant at Newburn Park? He denies it positively, and also denies ever having been in the service of Mr. Johnson. In cross-examination, he said: 'I do not know any butcher named Hopwood.' He was asked, 'Were you with him in the service of Mr. Johnson a year and nine months?' and he replied, 'I never was in Mr. Johnson's employ.' 'Did you leave Mr. Johnson's to go into Mr. Foster's employ at Boisdale?' 'I did not.' There we have Hopwood and Mrs. M'Allister in direct contradiction.

I almost fear to stop and inquire how many witnesses we have by this time who must have committed perjury if the defendant has not; it is a very formidable number. But, unfortunately, a book is produced, called *The Rivals*, which Mrs. M'Allister says she lent to Arthur Orton when he was at the station, and inside the cover there is—in what I cannot but think is unmistakably the handwriting of the defendant—'Mr. Johnson, Newburn Park, Gippsland.' If that is in his handwriting—and you must judge by inspection of it—it seems as if he knew more of Mr. Johnson, of Newburn Park, in Gippsland, than he has thought proper to tell in the court. We have the Boisdale books containing the accounts with Arthur Orton from December 15, 1856, to October 1858. There can be no doubt that Arthur Orton was there during that time. The name of Castro never appears in these books, and if we come to the conclusion that Roger Tichborne went in the name of Castro, he was not there. The defendant certainly, according to the evidence before us, was there; it is equally certain that Arthur Orton was there. The defendant having said he was there as Castro, and Roger Tichborne never having been there as Arthur Orton, we must come to the conclusion that he was there as Arthur Orton. If it be said that the defendant was there, not as Castro, but under some other name, it is a name of which we have no trace. We know from the evidence of Mrs. M'Allister that this book called *The Rivals* was one of a collection which was kept for the amusement of the labourers when their work was over. She lent it to Arthur Orton, and when it was returned to her she found this writing on the fly-leaf:

'This day I have received a letter from Donald Mac Donald With the Seal Broken I Arthur Orton here make a vow on this Book Although not a Bible It bear across That has I am a man of Bone Blood and flesh. That I will find out the man if

possible, that broke the said seal, and that I will punish him accordingly to the laws of my country. Sined ARTHUR ORTON.

'11. March, 1858.

Dargo.'

In this document there are peculiarities of spelling and punctuation. The word 'received' is always spelt without an i in the defendant's letters, and so it is here. The letters m, i, l, b, are in the handwriting of the defendant most marked, and I may say unmistakable. The letter i I have never seen formed in so remarkable a way before, and there is besides the peculiarity of a full stop being used for a comma. I find in this note the same letters, which I confess I cannot distinguish from the handwriting of the defendant, with which I am now so familiar. His m's are peculiar. His l's are remarkably like broken-down z's, and his w's are like the extended wings of a bird. When you have examined the handwriting you may be able to judge whether it is the handwriting of the defendant or not. I am merely now speaking in a general way, and shall ask you by and by to compare the handwriting of the defendant with that on the flyleaf of *The Rivals*, and if you think the letter was written by the same hand, then the defendant becomes inseparable from Arthur Orton.

There is another and a singular incident to which I must call your attention—namely, that the first service of Arthur Orton was at Boisdale, thence he was transferred to Dargo, and afterwards came back to Boisdale for a few months. Now, the defendant, except that he enlarges the time, makes his service follow in exactly the same sequence. That is another circumstance which tends rather to show that he is Arthur Orton. It is by no means conclusive, but it is one of the incidents in the case which deserve consideration. Then another fact follows. Arthur Orton was originally in his father's shop, and after he was sent to sea he came back and again entered his father's service. What do we find the defendant doing in Australia? He takes service as a butcher, and then as a stock-keeper. He settles at Tumut as a butcher, and fails; subsequently he goes to Wagga Wagga, and becomes an assistant and foreman to Mr. Higgins. He leaves that employment and sets up again as a butcher, fails again, and goes back to Mr. Higgins's employment once more. It is very unlikely that Roger Tichborne should take to a business for which he had no peculiar aptitude, and of which he could have known nothing. Mr. Hopwood and Mr. Petit Smith, both told us of the workmanlike manner in which the defendant cut up meat, and both complimented him upon it. To Mr. Petit Smith he replied, 'It would be very strange if I could not do it. I was brought up in the business.' Then he gives details of the Kings, of Newgate-market, and other matters. Of course Roger Tichborne could have known nothing of those matters. If you believe Mr. Petit Smith you have a version perfectly consistent with the defendant being Arthur Orton, though anything but consistent with his being Roger Tichborne.

Then we have a witness named Redmond, who says that after Arthur Orton left Boisdale he came to a place called 'Nowhere Else,' and acted as hut-keeper. He says that the defendant is the same Arthur Orton, and states that he spoke about Wapping and St. Katharine's Docks, described his father as a butcher, and spoke of South America, Melipilla, and Valparaiso. The witness farther states that he was fond of talking about prize-fighters, said that he knew the Broomen, and

was also fond of talking about bush-ranging. He speaks of a curious incident—two troopers coming to the station and Arthur keeping out of the way until they had gone, because he might have found some difficulty in accounting for a horse he had. Now the question is whether Arthur Orton could have been acting in the capacity of hut-keeper at this place, and at the time stated by the witness. The importance of the witness is that he distinctly says the defendant is the Arthur Orton he met at this place. There is, further, the confirmation from Mr. Hopwood, who says that in 1854 he was employed at a station not far from Wagga Wagga, and that on one occasion, when he was having a holiday at Wagga Wagga, he saw the defendant in his shop, when he said 'Hallo, Arthur, is that you?' and the defendant made a sign to him not to call him by that name, giving as a reason that he had abandoned it in consequence of some matters in connection with a horse.

Now we come to the year 1855. In the beginning of that year we have the fact of the defendant's marriage, which is one of those things which it is important to consider. The person whom he married was suited to the state and condition of Arthur Orton, but I have pointed to the improbability of Roger Tichborne marrying any one so much beneath him, in case he ever intended to resume his station in the world. But that is not the only thing. We have the defendant stating as his age the exact age Arthur Orton would have been if he had been the person actually married. This fact must be taken into account in determining the question whether the defendant is Arthur Orton or not. Again, we have the defendant allowing the marriage to be solemnised by a Dissenting minister in a private house. Is that more consistent or less consistent with his being Arthur Orton than with his being Roger Tichborne?

Then in that same year we come to the Richardson letter, and the question is whether you can see in that letter anything consistent with the position of Roger Tichborne or consistent with the position of Arthur Orton. I pointed out that I could see nothing to account for Roger Tichborne having written that letter, which the defendant was constrained to admit was a tissue of falsehoods. Could Roger Tichborne have found any motive for inquiring about old Orton and the rest of his family? But how does the matter apply to Arthur Orton? I could see a very good reason why Arthur Orton, if he intended to come forward as Roger Tichborne, might very well have said to himself—'Well, if I have been known in Australia as Arthur Orton, there may be those who will be able to identify me as Arthur Orton. What if such a thing should be suggested in England? Would it be likely that they would go to the old place and inquire if I am Arthur Orton? Before I take any decided step, is it not necessary that I should ascertain if the old people are there and what has become of the rest of the family?' I don't say that was what did occur to the mind of the writer, but it certainly may have occurred, and that is the only solution I can find, for no other has been suggested, why the letter should have been written. It strikes me, in considering the question whether the defendant is Arthur Orton or not, that the Richardson letter will be found quite in keeping with the position of Arthur Orton, and wholly inconsistent and out of keeping with the position of Roger Tichborne. There is this striking circumstance, *that whereas the man who caused that letter to be written could write perfectly well, he not only*

does not write the letter, but he does not even sign it. He gets it written by a schoolmaster. Of course, that letter would be shown to people at his father's. Therefore we can see what the motive would be in getting the letter written by somebody else.

We next come to the intercourse with Mr. Gibbs, to which I have already fully drawn your attention in the Roger Tichborne case, but of which there are two or three points very material to the inquiry we are now upon; for, if there are any statements made by the defendant to Mr. Gibbs which point to Arthur Orton, which are wholly inconsistent with their being made by Roger Tichborne, they would, of course, become of importance. First, a statement is made about St. Vitus's dance. How do you explain that? Roger never had St. Vitus's dance. Arthur Orton, we know, had it; so much so that he was sent to sea in order that he might be cured of it. The defendant, however, might have St. Vitus's dance and yet not be Arthur Orton. Then there is the case of the Wagga Wagga will. What shall we say about the names of Jarvis and Alleyn, the executors? From what memory did those names spring? You have heard the defendant's explanation of that, and you have also heard the theory of his learned counsel. What other conclusion can you arrive at but that the man who was making that will was Arthur Orton, and not Roger Tichborne? Then, the defendant is called upon, in making a declaration, to state in what vessel he left England, and at what time; and instead of stating the vessel in which and the time at which Roger Tichborne left, he states the vessel in which Arthur Orton sailed, the name of which could not be known to Roger Tichborne.

So the matter stands on the Australian part of the case, subject always to any alteration that may be made by the evidence adduced on the part of the defendant; and he calls a body of evidence to show that Arthur Orton and he are two distinct persons. Several witnesses say that Arthur Orton's appearance does not coincide with the appearance of the defendant. There are some who say they had seen Arthur Orton and the defendant passing by the name of Castro at one and the same time, in which case they cannot be one and the same individual; but then, of these witnesses, there are many who differ from what others have said. Two different descriptions are given of Arthur Orton. It is difficult to reconcile the two. One set of witnesses say he was marked by a scar; others not. There are also strange difficulties as to the time, which require your most careful consideration. All these matters require somewhat careful analysis and examination; and, no doubt, this part of the defendant's case is entitled to full consideration, because if he can show you that Castro and Orton were two separate persons living at the same time, the fact rebuts all inferences drawn from other circumstances. In judging of that testimony, we must first see what account the defendant has given of his intercourse with Arthur Orton. In his affidavit made in 1868, he says:

'I knew Arthur Orton. He was the son of a butcher in Wapping. I first became acquainted with him in Gippeland about the year 1855, when I was at the Dargo Station. He entered the employ of Mr. Foster after I did. His face was pitted with the smallpox. After I left Gippeland I did not see him again for some years. We were both employed by Robert Higgins, at Wagga Wagga, in the year 1865.'

The defendant was cross-examined as follows respecting Arthur Orton :

"Tell me the dates and places at which you have met Arthur Orton?—I think it was the latter end of 1855 I first met him at Boisdale. Then when I left Dargo he went up and succeeded me there. I met him a fortnight afterwards at Dargo. I met him off and on for 18 months—1856-1857. Then in 1858 I saw him at Stratford, on the Avon river, in Gippaland. He was with me constantly up to the latter end of 1859—across the country. We crossed over into the "Ovens" district, Victoria, at the end of 1859. Then I met him at a place called Borce, on the Murrumbidgee river, at the end of 1861 or the beginning of 1862, and then he went up with me to Wagga Wagga. Then I saw him some months afterwards—in 1862—and we went to Gundaquin. I did not see him again, I think, until 1866 at Wagga Wagga. I saw him twice there in the course of that year. The last time I saw him was on the 1st of June 1866, at Wagga Wagga. What did you talk about?—I can't remember, and if I did I don't think I should tell you. What name was he going by?—Alfred Smith. Have you ever communicated with him since?—No, I have not. Never?—No. Directly or indirectly?—I have written to him. Where did you direct to?—At Wagga Wagga, to the care of a friend. Who was the friend?—Joseph Robins; he knew him well. When did he come to Wagga Wagga?—I think about 1863 or 1864; I asked him to have the letter forwarded to Arthur Orton. Do you know why Arthur Orton went by the name of Alfred Smith?—Yes. Why?—I suppose because he had done something not conformable to the law. What sort of thing had he done that did not conform to the law?—I don't see why I should answer; I was not there when he did it. . . . Did you stay from 1853 to 1855 in Van Diemen's Land?—I was never there in my life. Did you leave Hobart-town for Port Albert in 1855 on your way to Mr. Johnston in Newburn Park?—I did not. Were you in Mr. Johnston's service as Arthur Orton?—No; I never went under the name of Orton. Were you engaged at Boisdale by Mr. Foster in December 1856?—No. Were you at Denilquin in 1860, and did you there change your name to Castro?—No."

Ultimately, after a long cross-examination, he says he last saw Arthur Orton at the end of 1866 at Wagga Wagga, about the time he made his will, and that Arthur Orton went back to Albury, the place of his then residence. Now, the dates which he gives as to his having seen Arthur Orton and to the Arthur Orton change of name are only important so far as they serve to control the evidence of the different witnesses who came forward for the purpose of proving that Castro and Orton were two separate and distinct individuals.

I will now briefly call your attention to what the witnesses for the defence say, for it is but just and fair to the defendant that his witnesses should be fairly heard. Many of his witnesses profess to have seen the two persons together, and to be able, therefore, to speak conclusively as to their not being the same. The first witness is Barclay, who says he went to Australia in 1849, arrived in Melbourne in 1850, proceeded to Bendigo at the end of 1852, and remained there for 8 years. According to his statement, in the latter part of the year 1853, while he was at Bendigo he saw a man named Arthur Orton, a loose-made fellow, about 5ft. 9½in. high, having the appearance of a sailor. He had coarse features; there was nothing on his

face, and he was not marked with the smallpox. On the latter point we have heard the strangest contradictions, for whereas witnesses are called from Wapping to say he had the smallpox, this witness asserts that he was a smooth-faced man. The witness goes on to say that Arthur Orton wore earrings, had rather high cheek-bones, and was of a coarse appearance. Witness being a butcher and having a stand in the market sold it to his two men, and Arthur Orton took a share with them. This occurred at the beginning of 1854. The witness says he saw Arthur Orton there butchering on and off for two months. He fixes the date in 1853 or 1854. Now Arthur Orton arrived at Hobart-town in 1853, and if we are to believe the evidence of Mr. Hawkes and Mrs. Mina Jury he did not leave that place until the autumn of 1855. Therefore, if this witness is speaking the truth, he must be alluding to some other person. There is a letter from Arthur Orton to his sister in London, dated from Hobart-town in March 1854, and, therefore, he could not possibly have been in Bendigo at that time. Then the witness says this man had no pock-marks, and that there was nothing on his face.

The next witness is a man named Woodgate. He saw a person named Arthur Orton in December 1856, when he brought down a mob of cattle. He had large hands and feet and high cheek-bones. Afterwards he saw him at a public-house in the evening. He saw him again at Carningham Diggings in November 1858, cutting up at a store belonging to Muir. The witness entered Muir's service, and afterwards Mr. Muir lost his horse, the horse and Orton disappearing together. Witness tried to trace the horse, but after searching for two days in the bush he failed to find either the defendant or the horse. Then, having this knowledge of Orton, he takes upon himself to say that the defendant is not Orton, or that if he is he is very much altered. He saw him six months ago at the Manchester Music-hall, when he had an interview with him; and he is satisfied he is not the man. Orton's hair was much lighter; he was a big-boned man, neither over-fat nor over-thin; he was a big muscular man. He saw him at Carningham, where he was well-known. Sometimes he was called Arthur, and sometimes Orton. That was in July 1856, the witness says. Arthur Orton had left Hobart Town in August 1855, and he did not go into service at Boisdale until December 1856. You must consider whether what this man states can be correct.

The next witness, George Jones, says he was in Australia at the end of September or the beginning of October 1854, and was employed as carpenter by Mr. William Forster at Boisdale in November 1856, for a month. He became acquainted with Castro. He identified him as the defendant. He also became acquainted with Arthur Orton. Both were in the employment of Forster at the same time. That statement is involved in great difficulties, for this reason—the defendant's account is that he, being at Boisdale, went to Dargo, and while he was at Dargo Arthur Orton was taken into employment at Boisdale; and when he came down once on a visit he found Arthur Orton there. Then he says when he finally quitted Dargo, Arthur Orton was transferred to Dargo and succeeded him there. But according to this man, they were both at Boisdale at the same time. The truth of that story must be tested by whether you believe that Castro was there at all. Now, if the books of Mrs. M. Alister satisfy you that he was never there at all at

Castro, you cannot believe a man who says he saw Orton and Castro there as different persons, more especially as his story does not agree with that of the defendant, who states that he, as Castro, and Orton were never there together. Then he says that in 1858 Castro was selling horses at Sale. That agrees with the account given of himself by the defendant—that after he left Forster's and his suit had terminated, he did take to horse dealing; and it is perfectly possible the witness did buy a horse of him.

When the witness saw the defendant in England he asked him whether he recollected him, and obtained a reply in the negative. He then said, 'I was the carpenter at Boisdale.' The defendant replied, 'If so you are the party to whom I sold a horse—or rather a gray mare.' The witness said that was perfectly right—it was a gray mare. After leaving Sale he went to Kilmore, where the witness says he knew Orton in the service of Mr. M'Manus, a butcher, and he describes him as a man of large features, large hands and feet, and light hair, and that there was no resemblance between him and Castro. He saw the defendant at a public meeting here in 1872, and knew him at once as Castro, and not as Orton. Upon that he wrote to Serjeant Ballantine, and told him that he had so recognised the defendant. This witness was asked whether Mr. Forster was a married man, and he replied, 'I suppose he was, because I saw his wife afterwards with him at Sale. While I was at Boisdale I never saw her.' That would tend rather to shake his statement about the date, for Mrs. Forster tells us that she was absent for a time, but that she went away in the month of January or February 1857, and did not come back till the end of that year or the beginning of the next. Therefore the man could not have been employed at Boisdale till 1857, at which time Arthur Orton was undoubtedly at Dargo, and so was the defendant according to his own account. Another statement by the same witness is that, upon leaving Boisdale he went to Stratford-on-Avon, to which place these two men came half-a-dozen times, riding on horseback, as if they had come from some station, and that he saw them in an hotel and in the billiard rooms. Stratford-on-Avon is not so far from Boisdale but that men employed at the latter place might go there, but it is difficult to see how the two could have been there together, because, according to defendant's account, at that time one was employed at Boisdale and the other at Dargo. The witness further says that early in 1859 he saw Orton at Reedy Creek, and that is perfectly possible.

The next witness is a man of the name of Trevitt, who became acquainted with Orton at Avoca in March 1856, where he was a hanger-on to a settler who had a flock of sheep. Witness agreed to slaughter them at a shilling a head, and Arthur Orton, the butcher, who was with the settler, agreed to share. He helped to slaughter half-a-dozen, but would do no more. At night they had a conversation around the camp fire, and this man told him his father was a large butcher at Wapping, and was named Orton. And then he states a thing which may be very characteristic of Orton. He says that the settler, when the sheep were slaughtered and sold, made him a present of a portable shop, and gave Orton his tent. But then, says the witness, 'When I went next day to take possession of the shop, Orton said I should not have it. I took up a tomahawk to knock the poles down and said I would have it, and he came behind me and felled me to the floor

with a blow at the back of the ear.' The witness gives a description of this Orton. He says he was about 5ft. 10in. in height; had a scar across the cheek; large cheek bones; large ears; a large nose; and small wires in his ears; feet and hands large; turned one foot out and had a slovenly way of walking. The witness adds that he was called Big Arthur, and that he used to talk about different salesmen in Newgate-market. He says there is no resemblance whatever between Orton and the defendant, except that they were about the same height. March 1856 is by no means an impossible date for meeting Arthur Orton, but then the description does not seem to tally with that given by the other Australian witnesses. I have just said that March 1856 is not an impossible date, but my learned brother (Mr. Justice Lush) corrects me. If Mr. Hopwood is right in saying that Arthur Orton was a year and nine months in the service of Mr. Johnston, he would at that date have been still in Mr. Johnston's employment, inasmuch as he did not leave Hobart Town till August 1855.

Then there is a witness of the name of Hayden, who arrived in Australia on August 4, 1854. This witness, who became acquainted with Arthur Orton at the end of that year, describes him in detail, and says that he was a bony, rough fellow. If this witness speaks the truth, and is speaking of the same man as we are, then it is very difficult to suppose that Arthur Orton could have left Hobart Town, have gone to Melbourne, done business there, and gone back again—but it is not impossible. This witness distinguishes between Orton and Castro by saying that he met Castro at the Omaha diggings in 1858 or 1859, and that he saw him again in 1860.

Then there comes a Mrs. Hiscock, who tells a very strange story. She seems to have been an itinerant store-keeper. She says that in September 1858 she stopped one night and encamped at a place called the Black Forest, between Bendigo and Melbourne. She says that two men came up and asked her to give them a panikin of tea. One of the men of the party called her Mrs. Hiscock, upon which the defendant said, 'Are you the wife of Hiscock, a bootmaker, of No. 70 Haymarket.' It seems to me a very strange thing that because anybody heard the name of 'Hiscock' mentioned, he should think that Hiscock of the Haymarket had transferred himself and all his belongings to the wilds of Australia. The witness says she replied, 'Yes,' upon which the defendant said, 'O, I remember him very well; he would not let me leave my coat one night when I was going to the opera.' The two men passed the night there, and on her saying, 'I shall tell my husband I have seen a gentleman who knew him. What name shall I say?' he replied, 'Roger.' The two men had nothing with them, and went away the next morning towards Melbourne. She read the report of the trial, and consequently called upon Mr. Hendricks. Afterwards she saw the defendant and recognised him. Now, Mr. Hiscock is alive, and might have been called, and to make this evidence complete we certainly do want Mr. Hiscock. If Mr. Hiscock had come and repeated this story, and so identified Roger, it would have been a matter of greater importance than this conversation between the two vagrants in the bush.

In the defendant's case there are many circumstances pointing adversely to him. The strength of his case lies in the multitude of his witnesses and the evidence they have given, and I should

not be doing justice to the defendant if I did not go minutely through that evidence in order that your recollection of it may be strong and fresh.

In a criminal trial like this I think it right to bring to your recollection all the evidence adduced on the defendant's behalf.

THIRTEENTH DAY, *Wednesday, February 18, 1874.*

Gentlemen,—There are still some of those Australian witnesses whose evidence I have to deal with, and I will state the substance of it as briefly as possible. The next in the list is William Creighton, now a travelling agent, and his evidence is to this effect. He arrived in Melbourne in August 1854, and soon afterwards became acquainted with Arthur Orton about two miles from Melbourne, at a place called Collington Flat, where he was engaged as a slaughterman. He saw Orton once a week for three or four months, and says he was a rough bony fellow. There was nothing particular about his face, except that he had high cheek-bones. He never noticed a mark or scar upon Orton's face. The difficulty about the evidence is, that at the end of 1854—if you can trust the Tasmanian evidence—Arthur Orton could not have been in the neighbourhood, as he was at Hobart Town. The witness distinguishes Arthur Orton from Castro, whom he says he saw in 1858 or 1859 in the employment of Mr. Foster; but if Mrs. M'Allister be right, no person of the name of Castro was ever in the employment of Mr. Foster; but, on the other hand, Arthur Orton was.

Then came James, the sly grog-seller. He tells us that he met Arthur Orton at Priors' Dean at the end of 1856, but afterwards corrects that statement, and says it was in June of that year. He says he was associated with the 'King of the Bush-rangers' and other men who lived on plunder. He describes Arthur Orton as having high cheek-bones, light hair, large hands and feet; and says that in the same year, four or five months afterwards, he saw him at Reedy Creek, and that he saw Castro—defendant—with him at the same time; thus showing, if his evidence is trustworthy, that the two men are separate and distinct individuals. He first saw Castro at Castlemaine, he says, at the latter end of 1854, coming with Orton from the bush. It has, however, been shown that Arthur Orton was at Hobart Town at the latter end of 1854; and therefore he could not be coming from the bush at that time, or associated with Castro. Then he says he saw both of them in 1855, at Geelong. That, again, does not tally with the evidence of the defendant himself. The witness says next that he saw them at Bendigo at the end of 1858, and that they were regular bush-rangers. He associated with these people, and once rode with Orton and Castro to a place seventeen miles from Castlemaine, when Orton said of the horse he was riding, 'This brute cannot jump half as well as those ponies I used to ride at Wapping.' The witness describes Arthur Orton as having a rolling walk, and as walking with one foot a little wider out than the other. He had very slight marks on his face, and his ears were pierced for earrings; and witness tells the story that Orton used to take the leaf of the gum-tree and put the stem through the holes in his ears. I have pointed out discrepancies in this man's statements with reference to dates, and you will have to consider whether, considering his association, his evidence is worthy of your attention.

Edward Loch, the next witness, who went out to Australia as a mariner, says he was at Melbourne in 1855, and he speaks of having seen Arthur Orton and Castro at the diggings. He

gives a description of Arthur Orton, who, he says, was slightly pook-marked, and that there was a scar on his face. Then he is asked what Orton and Castro were doing, and he says they were dealing in cattle, he thinks on their own account. Now, that is impossible, because at that time Orton was in M'Allister's employ, and, according to the defendant's own account, he was in service at Dargo. He gives you an account of a circumstance which would certainly impress Orton upon his mind. He says that there was a street disturbance, in which Arthur Orton took part; and when he went out to see what it was, Orton struck him with a stick, and that the mark remained yet on his face. First he says that this was in December, and then afterwards puts it as happening in October or the beginning of November.

Then there is Mr. Woolnough, who says that in December 1859 he was at Reedy Creek, and that Arthur Orton was in the employ of a butcher there. He describes him, and says that he has a distant recollection of his having pook-marks on the nose, but he says nothing about the scar on the face. He noticed no nervous movement of the eyebrows, and no twitching.

Then there is a person named Dyke, who landed in Melbourne, and in 1832 went to Wagga Wagga, where he rented billiard-rooms. When he had been there eight or nine months the barman, he says, pointed out a person named Tom, whom he afterwards found to be Castro, and that the man was in Mr. Higgins's employment. He describes the defendant correctly, and he also says that there was a man named Orton who used to come over to Wagga Wagga with cattle. He first came six or seven months after the witness had been there, and he saw the two men—Orton and Castro—together in the billiard-room, and afterwards on the racecourse. He distinguishes the two men, and says that Orton's voice was rougher than Castro's, and that his hair was lighter; that he had prominent features, high cheek-bones, upper lip protruding, bony, and thinner than Castro; also that he was splay-footed, and threw out his feet. He saw him shepherding horses before that time at the Bendigo diggings, and he says he was well acquainted with the man. He saw him again in the next season; and by loans and losses at billiards Orton became indebted to him to the extent of 3*l.*, for which he gave his IOU. He says that Orton paid him the 3*l.* in 1864 at Wagga Wagga. The difficulty as to this evidence is that he knew Orton in 1863 or the beginning of 1864, at Wagga Wagga, as Orton; but according to the defendant Orton had ceased to bear the name in 1862, when he took the name of Alfred Smith.

Then comes a witness named Ward, who went out to Australia in the year 1857, and saw Orton at Reedy Creek in the employ of Mr. Johnson. He describes him as a square-built man, sinewy, but not fleshy, big-boned, and slightly marked with smallpox. The last time he saw him was in November 1863, and he remembers the date, because it was two days after his own birthday. He says he had a conversation with Orton about the murder of Ballarat Harry, which had just occurred. But Mrs. M'Allister told us that Ballarat Harry was murdered at the time Orton was in their

vice, and that he refused to stay at Dargo as it was so lonely; so that if she be right the witness must be wrong, or Orton must have told him that which was not true. He was asked about Orton changing his name to Smith, and says it was not so.

Robert Gardner, who was next called, was, in 1863 and January 1864, at a place 60 miles from Wagga Wagga, and saw Arthur Orton, whose appearance, he says, was altogether different from that of the defendant. He says he knew Castro at the time he left Wagga Wagga, and that Orton was a taller and more rough-looking man. He noticed that Castro's hands were white, that he had a sleepy look about the eyes, and was not like Orton in the face. He first saw Orton at the diggings at Castlemaine in 1857; but that date is impossible, because Arthur Orton, in 1857, was either at Boisdale or Dargo.

Another witness, named Pole, is the only one who speaks of having seen Orton after the defendant left Australia. He says he met him at the Gap, on the Bendigo-road, at the end of November or the beginning of December 1866; and describes him as a full-made man, with prominent features, upper lip projecting, and with hair a shade lighter than his own, which was of a medium brown. This witness says Orton had a scar down the left cheek, from the cheek bone to the upper part of the mouth. He gives a remarkable account of his journey with Arthur Orton, which is hardly one to repeat. You will remember that he said they assisted each other in disencumbering themselves from certain unpleasant parasites, which are hard to dislodge when once they get possession. They had but one comb, which belonged to Arthur Orton, and had 'A. O.' written upon it. They were on what he called the 'Wallaby Track,' which was wandering about as two vagrants, 'trying to pick up a job,' or, as one might suppose, picking up anything that came in their way. If we believe this witness, of course Arthur Orton was present in the flesh after the defendant had left Australia. You remember his demeanour in the witness-box, and his credibility is a question for you. That concludes the Australian evidence.

It certainly does seem very much to point to two descriptions of person as regards Orton. In the one alternative there would be an end of the case against the defendant as to his being Arthur Orton. It is clear that both descriptions could not point to the same man. Some mention a man with a scar and with pock-marks; and, again, a person is spoken of without scar or pock-marks. It is clear that they cannot speak of the same person. Whether there was in Australia a second Orton I do not know. What is to me very unsatisfactory is the fact that the career of the other Orton who went from this country has not been traced. One witness speaks of the unusually large hands and feet of Arthur Orton, probably too large to be identified with the hands and feet of the defendant. Are we quite sure that they are speaking of Arthur Orton, and that they are not speaking of one of his brothers? We know that another brother went to sea and has not been heard of, and there is a possibility that these witnesses are confounding Arthur Orton with another Orton. I do not say that it is so, but the thing is possible. I cannot help thinking that what has been said as to the size of Arthur Orton's feet is an exaggeration. You remember the production of what was said to be his last by the shoemaker from Wapping, and that it was subsequently shown that pieces had been added on, which is not usual, but that they were fastened

on by rivets, which were of recent introduction into the trade.

Before I quit Australia there is one other circumstance to which I wish to call your attention, and that is the entry in the pocket-book which belonged to the defendant, and was found after he left Wagga Wagga, and in which there are entries unmistakably in his own handwriting. There is an entry which gives the landing of Roger Tichborne as at Hobart Town as distinguished from Melbourne. Now we know that Arthur Orton did land at Hobart Town, and the entry creates the suspicion that it was the intention of the defendant originally to represent Roger Tichborne as having landed at Hobart Town and not at Melbourne. The entry runs—'La Bella. R. C. Tichborne arrived at Hobart Town 4 Feb. 1854'—the date at which the defendant represents his landing at Melbourne. Was the intention such as I have suggested? If so it points strongly indeed to Arthur Orton as having landed at Hobart Town, and as having had at the commencement, when he was preparing his statement as to the manner in which he had been saved, an intention of representing that he had landed at Hobart Town.

A Juror.—Was there not a reward of 1000*l.* offered for Arthur Orton?

The LORD CHIEF JUSTICE.—There was, and I am coming to that fact. There is also in the pocket-book the address of Miss Loder, of which Roger Tichborne could only have known on the supposition that Arthur Orton had given it to him with a view to his making inquiries after her.

Now we quit Australia and accompany the defendant to this country. We have first remarkable circumstances that when in the river he inquired of the pilot, the witness John Bromley, did he know a pilot named Fergusson. Bromley said he did, two or three. 'I mean,' said the defendant, 'Fergusson, the pilot of the Dundee boats.' Would that be likely to occur to Roger Tichborne? Arthur Orton knew the Dundee wharf and pilots and boats well, for it was by the Dundee boats that his father and brothers received the Shetland ponies. Well, next we have that extraordinary visit of the defendant to Wapping. How is that to be explained? Can you reconcile that with the possibility of the defendant being Roger Tichborne? We find him so interested in the Orton family that he must go down in hot haste late on the night of his arrival to ascertain what had become of the Ortons. As I have already pointed out to you, Roger Tichborne might have undertaken the task of ascertaining what had become of them, and in that case, even if he had the most ardent and zealous friendship for Arthur Orton, the next morning would have amply sufficed to make the inquiry. But it is not only that. We have the conversation, as related by Mrs. Jackson and Mrs. Fairhead, in the course of which, if you credit their testimony, he exhibited the most familiar acquaintance with the locality and the inhabitants of Wapping—a place in which, in all probability, Roger Tichborne never set foot in his life. It is for you to ask yourselves whether you can reconcile that with the theory that he is Roger Tichborne?

But then how does it stand the other way? Is it consistent with the character of Arthur Orton? The learned counsel for the defendant used an argument which at first sight seems plausible enough. He said, 'Do you suppose that Arthur Orton could have been so insane as to go down to

a place where he would be certain to be known as Arthur Orton, if he was about fraudulently to assume the character of another man? Well, the experience of courts of justice tells us that men are every day convicted of crime by reason of some act which a sounder judgment would have told them to avoid rather than to do, but which, nevertheless, for some reason or other, they have committed, and which leads to the discovery of that which otherwise, in all probability, would have remained concealed or unknown. But is it so outrageous a proposition, after all, that Arthur Orton should have so acted? He goes down late at night, and very likely his sole intention was to reconnoitre and see whether old George Orton's shop was still in existence. He finds the house shut up, and with every appearance of being uninhabited. Well, what more natural than for him to go into the nearest publichouse, and see if he could not pick up some information about the people he was interested in? He goes into the nearest publichouse, he is well wrapped up, and the chances are that after twelve or fourteen years' absence, he having gone away when he was eighteen or nineteen, he would not be known. I can see nothing extravagant in his getting into conversation with the two women, the only persons he found there, in the way we have heard. But the learned counsel for the defendant was not satisfied with his own suggestion. He took a bolder course, and asked you to disbelieve those witnesses. I have already called your attention to that evidence, and it is for you to say whether they told the truth. All I can say is that if you believe their statements, I confess I do not see my way to any but one conclusion.

But it does not rest there. We know what took place the next day. The defendant found that Mary Anne Orton was married, and that an unmarried sister lived with her, and he puts himself in communication with those sisters under a fictitious form. He had received a card from a Mr. Stephens whom he met on his way home to this country, and he wrote a letter which purported to be presented by Mr. Stephens, but was really written and presented by himself. It is dated from Wagga Wagga, but was certainly written in this country after his arrival, for he had met Mr. Stephens for the first time on the voyage from New York to England. The letter was as follows:

'Wagga Wagga, N.S.W., June 3, '66.

'My dear and beloved Sister,—It many years now since I heard from any of you. I have never heard a word from anyone I knew since 1854. But my friend Mr. Stephens is about starting for England and he has promised to find you all out & write and let me know all about you. I do not intend to say much because he can tell you all about me. Hoping my dear sister you will make him welcome has he is a dear friend of mine. So good bye

'ARTHUR ORTON.

'.)
'A.'

That letter is unmistakably in the defendant's handwriting, and it contains, after the signature, the hieroglyph—perhaps that is not what I should call it—which the undoubted Arthur Orton invariably placed after his name. His letter to Miss Loder and to his sisters contain it. Where did he get it?

Now, it is a matter of notoriety among persons having legal or commercial transactions with the inhabitants of Spanish countries that each indi-

vidual appends to his name a special flourish or arabesque, which is called in Spanish a '*rúbrica*,' and without which the signature is not considered complete. In the *Dictionary of the Spanish Academy* the '*rúbrica*' is defined 'as the special and distinctive mark which each person, after having signed and written his name, places at the end of the same with a dash of his pen.' It is translated into Latin, '*Chirographus subscriptioni additus*.' To rubricate—'*rubricar*'—is thus defined—'To sign a paper already written without putting the christian or surname of the person who subscribes it, but merely his *rúbrica*.' This use of a conventional mark or cipher as the equivalent of a christian and surname is not known out of Spanish countries. But in France a somewhat similar effect is given to the flourish called the '*parafe*'—equivalent to our initialing. The peculiarity of the Spanish '*rubrica*' or cipher is that a higher degree of importance is attached to it than to the written names. Thus the names may be omitted, but the '*rubrica*,' if added by sign manual, will constitute a valid signature. I am told that a banker in Spain or the Spanish dominions will not pay a cheque on the signature of the person without the secret sign or '*rubrica*,' and that he will pay if the signature be omitted, but if the '*rubrica*' be marked correctly.

Now, there is no doubt that Arthur Orton in South America acquired and assumed the habit of using that mark. We see it in his letters to Miss Loder and to his sisters. He did not use it to those who would not have understood the sign. We do not find it in any of his letters to the Dowager or to Mr. Gibbs or Mr. Cubitt. It may, however, be said that from his intimate acquaintance and association with Arthur Orton, Roger Tichborne knew that Orton had been in the habit of using the sign and therefore adopted it. That suggestion you will consider. But we have further all this concealment. We know what he did to prevent the fact that he had gone down to Wapping from transpiring. He not only did not at any time let any one know of this till the Orton case was sprung upon him, but instead of then openly acknowledging what had taken place, he denied that he had ever been to Wapping. It is impossible to suppose that, having gone down there under such circumstances, he should have forgotten it within 12 months. We know that he took Charles Orton and the sisters, or, at all events, one of the sisters, into his pay. After a time, when pressed, he told those with whom he was in communication that his object was to ascertain about the family, in order to afford information to Arthur Orton and render assistance to those of the family who might need it. At another time he said he went there for the purpose of ascertaining whether Arthur Orton had arrived before him. The latter statement can hardly have been true; it is not consistent with another statement of the defendant—that he wanted to get information in order to send it to Arthur Orton. He gives pecuniary assistance to these parties for about 12 months. The first thing he stated with reference to Arthur Orton was that, so far from having arrived or being expected to arrive, he was living at Wagga Wagga under an assumed name. It would have been satisfactory if the correspondence with this Orton family had been produced. It has, however, all been destroyed. Why? Was it in order that the relations between one and another of these parties should not be known?

There is a circumstance connected with this part of the case which it is impossible to pass

over. With reference to almost every part of the Arthur Orton case—every part except that which relates to Australia—there are people still living who could have thrown much light upon it. There are a brother and two sisters of Arthur's living. I could not expect either side to call the brother Charles; I could not expect the prosecution to call him, because he had proved to be a traitor to the defendant, for as soon as the supply of money by the defendant was discontinued he went to the opposite side. It would have been plainly inconsistent with the proper conduct of the prosecution to present such a man as a witness and to ask a jury to believe him.

But there are the two sisters. They could have told you whether Arthur Orton had a brown mark or not. They were much older than he, and one cannot but suppose that if, as a child, he had a brown mark on his body, they would have known it. It seems to me impossible that they could not have known Arthur Orton. Again, they must have known if he had the smallpox, and when he had it, if ever. They must have known, above all, whether he had any wound that left a scar on his face. They could have told a variety of things which would have placed this matter beyond doubt either one way or the other. Why were these sisters not called? The prosecuting counsel could not call those who were in the pay of the defendant, and who had made affidavits in his favour. Why were they not called by the defendant? The learned counsel for the defendant said, 'I won't call them, because I believe they have been in communication with the other side.' But that is a mere suggestion, for which there does not appear a shadow of foundation. It is possible that they may have told a false story for the money they received, and that, had they been called, they might have spoken to that which would have brought more weight and more power than all the evidence that has been produced on the subject. There may be a better reason for their not being called to be found in the fact that they had told their story to Mr. Holmes, and when Mr. Holmes abandoned the cause of the defendant he may have been supposed to have told the other side all he knew. But then, said the learned counsel for the defendant—'If I had called those witnesses, and they had expressed the least doubt that the defendant was not their brother, it would be fatal to my case.' Well, I should not assume that they would have done so after the affidavits they had made. I should rather assume he would have thought they would say, 'We have no doubt he is not our brother Arthur Orton, and we can give you facts to prove it.' If they had said so, and had given the facts to establish what they said, it would have been of more weight and more force than all the evidence of all the witnesses the defendant has produced from Wapping. But they were not called, and the inference is that there was some good and sufficient reason for not calling them.

The last point which occurs to me as requiring your grave consideration on this part of the case is this—that from the day the defendant left Australia Arthur Orton has entirely disappeared. Mr. Spofforth adopted a singularly imprudent course, I cannot help thinking, of offering Cator 1,000*l.* to be divided between him and Arthur Orton, if Arthur Orton should be forthcoming. I say imprudent, because I cannot suppose that Mr. Spofforth could have intended that anything so *wicked* should follow as that we should have a *fictitious* Arthur Orton coming forward. To offer 500*l.* to Cator if he could find Arthur Orton, and

500*l.* to Arthur Orton if he should be forthcoming, would, however, be not unlikely to be attended with the consequences to which I have just alluded, but which Mr. Spofforth could not have intended. Cator, the baker, of Wagga Wagga, had gone back to Wagga Wagga, and you may depend upon it, if Arthur Orton could have been found within anything like a practicable distance of Wagga Wagga, Cator would not have lost sight of the 500*l.* But no Arthur Orton could be found, and whether he may have departed thence and gone elsewhere I am sure I do not know. We have it proved that Arthur Orton was not heard of in Australia till a given period, and that was the period when the defendant first arrived in that country; and Arthur Orton has never been heard of since the defendant left Australia, except by the one single witness to whose evidence I have drawn your attention.

I said this was the last of this part of the case; but there is another thing to which I ought to call your attention. Donna Clara Hayley told us in her evidence that she saw on the arm of the young sailor lad who came to her husband's house two letters worked in blue, a thing she had never seen before. She asked the lad what it meant, and he told her they were the initials of his name, A.O. Mrs. Mina Jury told us that she saw Arthur Orton one day in Hobart Town, when in the employment of a butcher there, coming up the street in great haste with his arms bare, and that she then saw the same marks. The concurrent testimony of those two witnesses coming from different parts of the world appears to prove that Orton had such a mark on his arm. The two sisters could have told us whether or not that was the fact. Suppose it was there, is there any corresponding mark on the defendant's arm? There is a mark there—you, gentlemen, have seen it; I have not—and you will judge whether it corresponds with the mark spoken of by Donna Hayley and Mrs. Mina Jury. One remarkable fact connected with it is that the defendant cannot tell us how that mark came upon his arm. Such a mark could only be produced by a burn, a scald, a boil, or from cauterisation of the skin to get rid of an otherwise indelible mark. No such mark from any of those causes could have come without the knowledge of the defendant—he could not have had a burn or boil or scald without knowing it. He cannot, however, tell us from what time he first saw it—he cannot connect it with any circumstance of his life, except one. He says he had his arm broken in the bush, that it was very tightly bandaged, and that it may have been from that. He can suggest nothing else; and the eminent surgeon who was called on his behalf, Sir W. Fergusson, did say that such a thing was possible. But even that is a matter of supposition—for the defendant does not say, as a matter of fact, it was so produced. Do you think this mark corresponds with that spoken of by the two witnesses? This is a circumstance which is deserving of being taken into account.

Well, gentlemen, those are all the facts relating to the Arthur Orton case which occur to my mind. Taking the affirmative evidence of the prosecution and the negative evidence of the defendant's witnesses, and looking at it all by the light which all this mass of facts is calculated to throw on the case, you will say in your judgment whether he is Arthur Orton or whether he is not. Of course, if he be Arthur Orton he cannot be Roger Tichborne. The converse of the proposition, however, does not follow. He may not be Arthur Orton, and still

may not be Roger Tichborne. It has been assumed by the learned counsel for the defendant that the prosecution were bound not only to show negatively that the defendant was not Roger Tichborne but affirmatively who he was, but that proposition cannot be sustained. On one part of the case all they were bound to do was to show that he was not Roger Tichborne. It is your province, and yours alone, to say whether they have or have not done so.

And now, to revert to the question, is the defendant Roger Tichborne? Gentlemen, when we desire to ascertain the identity of a person we would naturally turn in the first place to the members of his own family. There has in this case been a violent attempt made to create a violent prejudice against the Tichborne family, as knowing perfectly well that the defendant is the man he represents himself to be, but combining to keep him out of his rights, and against the Seymours, as acting from motives of a base and mean character. Now, as regards the Tichborne family, it is quite plain from the settlements that they have no pecuniary interest in the matter, with the single exception of Lady Radcliffe, whose second son, in the event of Roger Tichborne's will holding good and the infant heir dying unmarried, or having married, leaving no son, will become entitled to a considerable portion of the property. The other members of the family have no interest in it of any sort or kind. The only interest they have is to uphold the honour of the family, and if they believe that an impostor is endeavouring to deprive their kinsman of his right, to prevent his succeeding and to protect the rightful heir. They may be mistaken—that is for you to say—but that they are acting under an honest belief is clear and plain, and could not be gainsaid by any person forming a right-minded judgment.

Now, as regards the Seymours' pecuniary interest in the result of this case, they have none; but, although they have not the honour of their own family to uphold, they have an interest in protecting their undoubted kinsman if they believe him to be unjustly assailed. Whether they be right or wrong as to the identity of the defendant, any one who was not a fool or a fanatic, or a combination of both, would have given them credit for acting disinterestedly and honestly. Instead of that, however, public meetings have been held throughout the country, and popular passion has been stimulated by harangues of an inflammatory nature, and they have been held up to obloquy and reproach as seeking to keep an honest man out of his inheritance. You remember the scene that occurred when Mr. Alfred Seymour went to take leave of the dead body of his sister. 'Alfred Seymour,' said the defendant, 'you are a d—d liar, and you are seeking to keep me out of my rights.' Would not Roger Tichborne, who had been brought up among and accustomed to the society of gentlemen—ask yourselves would not he, if placed in that position, have said, 'Well, my uncle is against me; he does not believe in me; but he was once kind to me; I have known him for years, and I know he would not act as he is doing from any other than an honest motive. I am, therefore, bound to treat him with decent respect.'

Gentlemen, one of the things you will have to consider in the case is the conduct of the defendant after his arrival in this country, and see whether you can recognise in it the conduct you would have expected from Roger Tichborne; and that is why, in going through the corres-

pondence, I endeavoured, as far as possible, to familiarise you with the character and feelings and inward sentiments of Roger Tichborne. I should just mention here the witnesses who have been called who were acquainted with Roger Tichborne's earliest days—M. Chatillon, who was his tutor; M. D'Aranza, who was a familiar friend of the family; the Abbé Salia, who lived in the same house with him; the Pere Lefevre, who was the confessor of Roger Tichborne; his relations, the De Brimonts; and the old servant who was 14 years in the house, and saw Roger Tichborne from the time he was in his nurse's arms up to his advanced boyhood. There was also Burdon, who was his father's valet until the time Roger left this country. All these witnesses declared their conviction that the defendant was not Roger Tichborne. Then we have a number of witnesses who knew him at Stonyhurst, including Mr. Mannock, Sir J. Lawson, Humphreys, who was a servant, and Father Rigby, and Father Etheridge. We have also a number of members of the family. We have Mrs. Nangle and two of her children, who were his playmates at Paris, and knew him up to the time he left this country, and also her daughter. We have his five cousins, the daughters of Sir Henry Joseph Tichborne; and we have several friends, including Mr. Talbot, Mr. Thornton, Mr. Heysham, and Mr. Fitzgerald, all of whom were acquainted with him. Then we have the greater portion of his brother officers, no less than ten of them, and several of the Carabineers, non-commissioned officers and privates, all of whom state their belief that the defendant is not Roger Tichborne. I need not say that this is a very strong body of evidence.

I shall now call your attention to the description they give of him, and it is for you to compare these statements with those which have been made on the opposite side. You will have to give due weight to the evidence on both sides, and you will then have to decide the important question whether the facts of the case which have been placed before you, and also the knowledge of the facts of the life of Roger Tichborne displayed by the defendant, or the ignorance of that life exhibited by him, leads you to the conclusion that the balance must incline one way or the other as to the defendant being Roger Tichborne. Let me call your attention to the account given of Roger Tichborne by the different members of his family, which you will have to contrast with the account given by witnesses on the other side.

Mr. Danby Seymour, in cross-examination, stated distinctly his opinion that the defendant was not Roger Tichborne. He says Roger's hands were bony, but not particularly small. He describes Roger as walking in a slouching sort of way, and as being in-kneed, but not so much so as to say he was in-kneed. That sounds like a contradiction; but I think I understand what he meant—it seems to imply that there was a certain degree of 'in-kneedness,' if I may so say, but not much to speak of. Mr. Danby Seymour does not go into any general description of Roger, but Mr. Alfred Seymour does. He says Roger was exceedingly slight-built, with a very expressive face, and an exceedingly narrow chest. This witness says Roger had no twitch, and he says that Roger had no malformation of the thumb. All these witnesses, including Mrs. Bouverie, deny that the defendant is Roger Tichborne. Mrs. Bouverie describes his hair as being rather thin, and says that if there had been any peculiarity in the formation of the thumb she must have observed it, as she used to play

chess with him at Knoyle. Several of these witnesses speak of his having had a thin, bony hand, which would show the knuckles.

Mrs. Nangle describes him as being slightly made, shoulders low, straight, lanky, dark brown hair, long bony fingers, and bony prominent knuckles. There was no twitching about his eyes. The defendant had not the slightest resemblance to Roger Tichborne. Then Miss Nangle follows with a similar description, adding that Roger Tichborne was excessively like his mother, but not like the Tichbornes. Major Nangle describes him in like terms, and says he was very slim, very delicate, long neck, drooping shoulders, careworn expression of countenance, and voice very soft and melodious. Captain Nangle makes similar statements, and in cross-examination says that Roger was a slim, smoke-dried individual; he seemed very pale from excessive smoking. Lady Dormer gives a very good account of him. He was a slight man, about 5ft. 8in. in height, with sloping shoulders, more like a Frenchman than an Englishman, with a very ugly nose and very open nostrils. She observed no twitching whatever. The 'twitching' has been made a great point of by the defendant, but all these witnesses say that Roger Tichborne had no twitch—that he merely, they say, elevated his eyebrows when animated in conversation.

Mrs. Greenwood, who knew him well, because of his frequent visits to Brookwood, says Roger was very slight, narrow-chested, with falling shoulders, long and narrow in every way—long nose, not in the least aquiline; long thin fingers; bony knuckles, very strongly developed; a wiry-looking person. He looked, she said, as if he were hung on wires; a very loose-made person. Then with reference to the twitch, she says, 'He had a manner of raising his eyebrows when talking earnestly, but nothing more than any one else.' And she adds, 'I never remarked that he had any peculiarity of the thumb. I never even heard of it.' She is asked about the twitch, when she said that she had never noticed any constant movement of the eyebrows, but he used to raise them up when in conversation. Mrs. Towneley is another of the cousins, and she speaks more strongly as to the formation of his knees. She says that he always struck her as being rather knock-kneed. His legs were very thin and appeared to be weak. She never noticed any twitch or movement of the eyebrows. The eyes of the defendant were quite different from those of Roger Tichborne, which were blue, with long, dark eyebrows. Mrs. Washington Hibbert speaks of Roger as having sloping shoulders, black hair, gray-blue eyes, looking darker because of the dark eyelashes, and she added that the hair of the defendant was darker than when she saw him at the last trial. Whether by using certain compounds you could make your hair darker for a time I do not know. You will form your opinion as to whether the defendant has done so. Then she says, 'It is quite ludicrous and absurd that the defendant could be taken for Roger Tichborne.'

Lastly, we have Mrs. Higgins, who knew Roger from the time he first came over to England, and who says he was then almost a Frenchman. That lady gave her evidence with perfect propriety and fairness, but she was cross-examined in a manner I very much regret. She was asked questions with regard to her second marriage, and there seemed to be a desire to say everything offensive of the late Mr. Higgins. It appears that Mr. Higgins took an active part in investigating

the defendant's claims, and he denounced his pretensions as unfounded. That seems to have inspired the defendant and his advisers with a peculiar animosity towards Mr. Higgins, which was displayed in more ways than one by the defendant's counsel. But Mrs. Higgins might have been spared any questions about her second marriage; there was nothing in the slightest degree that called for anything of the sort. The defendant's counsel says, 'I am sorry to have to ask you whether the second marriage was approved by the family?' To this Mrs. Higgins answers, 'I was married from my mother's house.' Then she is asked, 'Did Roger approve the marriage?' To which the answer is, 'Yes; I never heard him express any opinion about it.' Then she is asked, 'Mr. Higgins was a newspaper writer, was he not?' To this she answers, 'He wrote occasionally articles in the newspapers.' Now, why should that have been gone into except for the purpose of annoyance? It was done partly to annoy her and partly to show a dislike of Mr. Higgins. But I cannot allow conduct of that kind, conduct of an offensive character on the part of the defendant's counsel, for which I cannot see any possible object but to give pain, to pass unnoticed, and I must say that I do regret that such a course should have been pursued.

Then we come to another class of witnesses, not members of the family, and among them I do not know any whose opinion is entitled to greater weight than that of Colonel Greenwood, who knew Roger from the time he first came to England. Colonel Greenwood describes him as a thin young man, with narrow face, sallow complexion, dark, straight hair, and sloping shoulders. He says he weighed Roger in 1847, when Roger was 18 years of age, and his weight was then 8st. 12lb. He says the defendant is not Roger. Then Mr. Mansfield, a connection of the family, who met Roger early in 1849 at Captain Washington Hibbert's, gives a curious account of him. He says when he first saw Roger he looked like a wild animal newly caught. His countenance wore a mixed expression of surprise and alarm. At first sight Roger Tichborne's appearance, he says, was not prepossessing, 'but I liked him afterwards, and he became very much improved.' Then Mr. Fitzgerald, another friend of the family, who met Roger at Tichborne in the summer of 1849, describes him as a lean, slightly-made man, not well set up, who walked loosely, but he never observed that he was in-kneed.

Next we have Miss Weld, who was staying at Tichborne, and spoke to the tattoo marks particularly. When asked whether the defendant was Roger Tichborne, she says there is not the slightest resemblance between them. In cross-examination she is asked to give particulars, and she says she did not remember the colour of his eyes, but that his hair was a very dark brown, almost black. And being asked whether she ever knew a Tichborne who had dark hair, she says that Miss Nangle was dark-haired, and she was a Tichborne. The next is Mrs. Whitbread, who was twice a visitor at Tichborne. She says Roger Tichborne was a very interesting person, melancholy-looking. She remembered his eyes very well. He had dreamy blue eyes, with a great deal of expression in them—an expression you could not easily forget. His face was long and thin. The hair was light. She is asked if she noticed any twitch of the eyebrows, and her reply is that there was a slight movement of the eye-

brows sometimes, when he was a little animated, but she could not call it a twitch. His movements were languid. She thought his hands were very bony. His manner was very courteous; he was very amiable, and always a gentleman. He spoke a mixture of French and English.

Then comes Mr. Gosford, who says that Roger had no deformity or peculiarity about the legs, but he had a peculiar walk—that he turned his toes out and jerked his legs as he walked. He had not the walk of a soldier. Mr. Gosford says he had seen Roger Tichborne walk, run, jump, and dance scores of times. In cross-examination he says there was nothing at all about his legs that attracted notice except the turning out of his toes; and as to the twitch, he says Roger had nothing of the kind, and one of the first things he remarked upon was the absurdity of those persons who stated that Roger had a twitch. When animated Roger might raise his eyebrows just as he himself might do, nothing more. Roger had a peculiar way of sitting with his head hanging down on one side, like a person thinking, and his face had a peculiarly pensive expression, like the photograph that was handed to him. Being asked as to whether Roger gesticulated Mr. Gosford said he had a good deal of movement, spoke very rapidly, and clipped his words. He had a habit of gesticulating, but not so much as many foreigners. He described Roger's voice as if it seemed not to extend to the throat; there was no depth of tone in it. It seemed to come just from his mouth, no deeper. Mr. Gosford says, 'Most certainly the defendant is not Roger Tichborne, I am as certain of that as I am of my own existence.' But it was not merely from the personal appearance of the defendant that Mr. Gosford was prepared to say he was not Roger Tichborne. He was about to go into various circumstances which it would be quite right that the jury should take into account, whereas a witness is not allowed to do so, because all he is asked about is matter of opinion founded on the personal appearance of the individual.

Then there is Mrs. Gosford, who says that nothing could be more dissimilar than the appearance of the defendant and Roger Tichborne. Hair and shape of the face were quite different. She was decidedly of opinion that the defendant could not be Roger Tichborne. Next came Burton, an old servant of Sir James Tichborne. He says that Roger's legs were perfectly straight. He had seen Roger stripped on many occasions, and he had never observed that he was in-kneed. Being asked with regard to the twitch he says he never saw Roger move his eyebrows in his life; if he did he must have seen it.

Now, gentlemen, there are no fewer than seven witnesses from Stonyhurst who all agree that the defendant is not Roger Tichborne, and I may summarise their evidence. They are all agreed that Roger's hair was brown. One witness says it was of a dark brown, and one that it was of a light brown colour; but all say it was thin, and that a lock used to fall over his forehead—what we call a forelock. They are also agreed that in figure he was thin, slight, bony, narrow-chested, and of a pale, sallow complexion. With regard to the knees, one witness says he could not in any way be said to be in-kneed. The rest say nothing about it. But there is one of those witnesses, Mr. Scott, the infirmarian at Stonyhurst, who knew Roger all the time he was there, and his evidence is deserving of more attention. He distinctly says the lobes of Roger Tichborne's ears were not

detached from the side of the face, and that, gentlemen, is an important point for your consideration. He says, 'I am quite sure as to the fact. I noticed it several times, so as to speak with a full knowledge.' He says, 'His hands were bony, but I never observed anything about his thumbs. He seemed very weak on his legs when he walked, his legs seeming to give way a little from want of strength. His legs were very straight, but in walking he bent his knee.' This passage seems to me deserving of particular attention, when compared with the evidence given by witnesses with regard to Arthur Orton. 'His legs were very straight,' says Mr. Scott, 'but in walking he bent his knee as if from weakness. When standing up I never saw any defect, but in motion I noticed that which would arise from the weakness of his legs I think. His voice was a small, weak voice, exactly like a Frenchman's. If I had not known his name I should have thought he was a Frenchman. The defendant is not the Roger Tichborne I knew at Stonyhurst; certainly not.' Then the Rev. Mr. Bird says he saw a good deal of the defendant, and he certainly is not Roger Tichborne. He says after what he heard he tried to see some resemblance, but could not. Then comes Lord Bellow, who speaks of Roger's personal appearance as slight, angular-looking, with dark brown, very straight hair, which hung over his forehead, and which he was in the habit of throwing back, with narrow chest and voice not in the slightest like that of the defendant. Roger, he says, was not in-kneed, but he had the appearance rather of being knock-kneed, because he turned out his toes.

And now I come to the description given of Roger Tichborne by the military witnesses, and especially the officers with whom he was in the regiment for a period of some three and a half years. The first witness, I think, was Captain Fraser, who at the time Roger joined the Carabineers was regimental sergeant-major, and had the arrangement of the drills. He speaks to matters that will become important by and by when we test the military knowledge of the defendant, and see whether it comes up to what might fairly be expected from Roger Tichborne. He says that Roger's want of knowledge of English caused him many times to be laughed at when he ought not to have been. At first he did not understand the military terms applied to the instruction, but subsequently he understood them thoroughly. Captain Fraser says, 'His personal appearance was not very nice. He was a young fellow, very thin indeed, and not at all appropriate to the service. He was what we should call a "weed," a weedy young fellow. He had no chest at all. He drooped in his shoulders. The colour of his hair was a dirty brown, with no inclination to curl. His complexion was sallow. He had no twitch of the eye. I ought to know him well. He was in my hands three or four hours every day during five months. He walked perfectly straight. I always fancied that he was weak in the limbs. He had no legs, no thighs, no calves to his legs; but he was perfectly straight in his limbs, if you understand me. He always appeared to me to be weak.' This witness says Roger Tichborne was a constant friend of his while he was in the regiment.

The next witness was Colonel Bickerstaffe, who was adjutant of the regiment when Roger Tichborne joined. He says he was on most intimate terms with Roger. He describes him as slight, with very sloping shoulders, narrow chested, with pigeon breast, and suffering a good deal from

asthma, which gave a crinkled look to his face. His hair was dark, and perfectly straight. He never noticed any peculiarity about Roger's legs. There was no twitching of the eyes, not in the slightest, and he never saw any peculiarity in his thumbs. He had always the habit of kicking against his sabretache when he walked. He had seen him lift his eyebrows when surprised, but it was no twitching. Roger knew his drill perfectly in theory, but when he came to put it in practice he knew nothing about it. Witness could not teach him the word of command. That arose from his want of English and his inability to express himself in the language. At Portobello Roger's rooms were nearly opposite to those of the witness, and Roger used to come into witness's room every evening, and there witness used to teach him his drill by means of little bits of cards. Colonel Bickerstaffe ascribes Roger's forgetting the word of command when he got on horseback to the difficulties he found in managing his horse, of which he had no hold, and never could acquire a cavalry seat. 'His whole time,' says Colonel Bickerstaffe, 'was taken up in trying to manage his horse, and what with that and his broken English, although he knew his drill, the moment he got on his horse he was a most inefficient, clumsy, and bad officer.'

Then comes Major Foster, who was a young officer in the regiment when Roger joined, and to whom Roger was handed over to be introduced to the other officers. Major Foster tells us one fact which would lead us to think that Roger Tichborne was not likely to develop into a big man. He says Roger was so thin about the waist and hips that they were not sufficient to hold his sword up, and were it not for the hooks he had attached to his jacket the sword would never have stayed up. Roger, he says, had a weeping eye and a woe-begone look. He never noticed anything about Roger's thumb. Roger was very much of a Frenchman, but a perfect gentleman, and Major Foster never saw anything that would lead him to think that he was fond of low society. He used to speak very imperfect English—translating French into it. For instance, speaking to a lady, he used to say, 'Will you profit by the fine time to make a promenade?' While Major Foster knew him Roger studied his duties most conscientiously. His brother officers attributed his backwardness to his defective education. Major Foster says that on one occasion he said to Roger, 'How could you pass an examination? It must have been a perfect farce.' 'Not at all,' said Roger, 'it was very difficult.' Then he asked, 'What questions did they ask you?' Roger said they asked him who Charles V. was, and 'he told me,' says Major Foster, 'several things in the life of Charles V. about the battle of Pavia, and other matters which I never knew before.'

Then Major Jocelyn, who was captain of the troop to which Roger belonged when he first joined the regiment, describes him as of a sallow, unwholesome looking complexion, very slight, narrow chested, and what we should term 'a weed of a man.' Roger had a sinewy, narrow hand, with long fingers, and Major Jocelyn never saw any peculiarity about his thumbs, none whatever. As to his walk, he said Roger was, as would be said of a horse, 'a bad goer.' He says, 'We used to have a drill called "mid-day stables," which necessitated our being in the stables longer than the duty to be done actually required. During such times I used to sit upon a stable bucket, and he used to lie upon some straw at my feet, and I used to try to teach

him English.' Now upon that the learned counsel for the defendant made some very telling remarks, and sought to represent it as the kind of life these officers always led. He pictured one officer sitting on a bucket, and the other lying like a dog at his feet. The real fact being that it was superfluous time which was at their disposal, which was utilised in this manner, and then converted by extravagant assertion into 'Roger lying like a dog at his feet.'

Captain Polhill Turner is the next witness. He was captain of the troop to which Roger belonged, and was with him at Clonmel. Captain Polhill Turner says that Roger and he were thrown very much together. Captain Polhill Turner went to Waterford with his troop in 1851, and Roger was left behind at Clonmel, where he was attached to the in-coming troop, but he followed Captain Turner to Waterford in the October of that year. Captain Turner describes Roger as remarkably thin, slight and angular, with a narrow forehead, and the lower part of the face very long—'a very long jaw,' he says, 'which came round to a sharp point at the end of the chin.' His complexion was exceedingly sallow and dirty looking, which made his hair look very dark. His walk was very singular, he shuffled his legs very much about. 'His eyebrows,' he says, 'went up very often when he was in conversation and became animated.' He did not remember anything peculiar about Roger's thumbs, and he must often have noticed them, as they used to spend a good deal of time together of an evening playing at *carté*. Captain Polhill Turner married one of the daughters of Sir Henry Winston Barrow, who had a residence near Waterford, and he introduced Roger to the family. Roger frequently visited at the house. When at Waterford Roger was taken with one of those seizures which are not satisfactorily explained, and was bled for it. The question is whether there are marks of the bleeding on the person of the defendant. Captain Turner says that Roger knew his drill fairly well; but he spoke with a French accent, which was a decided impediment, as the men did not understand what he said and used to laugh at him. He used to say 've' for 'we,' 'vil' for 'will.' 'Vil you do this?' for 'Will you do this?'

Another important witness is Captain Manders, who said, 'I had a better opportunity of seeing Roger Tichborne than any other officer.' He frequently questioned me on military points, knowing I was adjutant so long. I was constantly about the barrack yard, and used to take great interest in Roger Tichborne. He made progress in his military knowledge, but he was not sharp, and laboured under the difficulty of not being able to understand the language thoroughly. He was able to command a troop in the field tolerably well, and was familiar with the word of command.' Then in cross-examination he said, that it was a very great disadvantage to him not to be able to express himself immediately; that did not arise from his want of knowledge, but from his inability readily to express himself in English. He made great progress, was by no means an ignorant man, and was very gentlemanlike in his manners. Then he goes on to state that which must show that this young man was not the idle character which the counsel for the defendant sought to represent. He said, 'He was fond of reading, but I don't know what books he read. He was very fond of history, and we have had some conversation about it. The impression on my mind is that he never read novels and light literature, as he

never talked about them. I thought he was a great reader, as he spent most of his mornings in reading and smoking.' Captain Manders is no doubt mistaken in saying Roger never read novels. There are novels of a high class which it would be useful and interesting to read. But, at all events, his evidence shows this, though Roger might have read light novels, he had a taste for a more serious kind of literature. He also says that Roger had a taste for antiquities, and as Ireland is full of old ruins, Roger was very fond of visiting them. And there is this important statement made by Captain Manders, that he never saw Roger Tichborne drunk, though he had ample opportunities of seeing him if he had been, and he never perceived in him any tendency to low society. With regard to society in Dublin, he says his impression is that Roger mixed with the best.

And now comes an important piece of evidence—important because it is a matter upon which the defendant was examined, and upon which he manifested what would be a very singular ignorance on the part of an officer. Captain Manders tells us that a squadron is composed of two troops, and that nobody in a regiment who knows anything about it would call a troop a squadron or a squadron a troop. With regard to the twitching, Captain Manders says he had observed the motion of Roger's eyebrows. When Roger got warm in conversation, Captain Manders remarked that the skin of the left eyebrow used to move a little. That was when Roger felt a difficulty in speaking. Now, gentlemen, that is a matter worthy of consideration. Here is a young man who thinks in French and finds a difficulty in expressing himself in English, and in such a case Captain Manders observed that he used to lift the skin of the left eyebrow a little. We know many persons who look down and wrinkle the brow under the influence of mental exertion, while others throw the forehead upwards as if to catch something in the air. And so, perhaps, there was something similar in the case of Roger Tichborne. But it is not at all impossible that persons exaggerated to themselves what they had observed of the movement of this young man's brow when he was under the influence of some mental emotion, and found a difficulty in giving expression to his thoughts. In cross-examination Captain Manders is asked his opinion whether the defendant is not Roger Tichborne, and his answer is that he had tried to argue against himself and see whether he could trace anything in the voice of the defendant like Roger Tichborne's, but it was quite different. 'I am decidedly of opinion,' he says, 'the defendant is not Roger Tichborne.'

Then comes Colonel Jones, who also describes Roger Tichborne's personal appearance and speaks to his having had to pass an examination for his lieutenancy, which examination was held at Cahir. This is an important fact, because the defendant said he had to go to Dublin for the examination. The defendant had also said that he used to get Major Phillips to let him off his drill by giving him a bottle of brandy. That is a reflection on Major Phillips, who is now dead. With regard to that point Colonel Jones says that Major Phillips was a sober man, and he never knew him to be fond of spirits or brandy.

Then we have the evidence of Major Botte, who joined the regiment in Cahir, and who says he never noticed any such peculiarity in Roger's thumb as there is in the defendant's. It is with respect to this witness that Captain Polhill-Turner says that he left him one evening in Roger's room,

that soon after he heard a great disturbance, and, going out of his own room to see what it was about, he found a file of guards in the passage, and Roger in a state of great excitement, saying he was about to put Botte under arrest. Upon this, said Captain Polhill-Turner, 'I said, "I will put you under arrest. Consider yourself as under arrest in your room till morning." This was a matter about which the defendant had been asked. Such is the evidence of the officers.'

We have next a man named John Irwin, son of old Irwin, the head mess waiter. This man used to assist his father in waiting on the officers at mess, and he swears the defendant is not in the least like Roger Tichborne. He says he never noticed any twitching in Roger's face, that he had a shuffling walk, that he could not be called a knock-kneed man, though when walking his knee inclined inwardly, but when he stood still there was no such inclination. He never saw any peculiarity in Roger Tichborne like that of the defendant's thumb. Then there are other witnesses—Shepherd, Lookwood, Parker, Peachey—all of whom saw a great deal of Roger, and who all declare that the defendant is not Roger Tichborne.

Then we have Major Kellett, who lived within a mile of Clonmel, and married a daughter of the Rev. Mr. Moreton, father of Captain Moreton, in whose troop Roger was ultimately placed. He says he has a perfect recollection of the personal appearance of Roger Tichborne, whom he did not think well-shaped or well calculated to be a good soldier, especially in a mental point of view. Roger, he says, was thin, with a narrow chest, and his legs particularly thin. 'When in hunting dress and tops,' he adds, 'his boots were miles too big for his calves. I do not recognise the defendant as any one I know. He is not the Roger Tichborne I knew.' The defendant, when asked about the Rev. Mr. Moreton, said that he was a very bigoted man. But Captain Kellett says that he was not at all bigoted. He says that Roger used to visit at the Rev. Mr. Moreton's house, and that he used to have discussions about religion with Mr. Moreton, and that while each stood up for his own, they conducted the controversy in a good-humoured way. He says that Roger used to hold his own, and was not wanting in facility of expression, but the clergyman, as being more of a theologian, was more master of the field. Captain Kellett says he dined at the mess frequently and Roger dined at his house, and he never saw Roger take more wine than gentlemen are in the habit of taking; he never saw him the worse for liquor on any of those occasions.

There is another gentleman who, though not immediately connected with the Carabineers, was thrown into close contact with Roger Tichborne. I allude to Captain Villiers Morton, the brother of the Captain Morton in whose troop Roger was lieutenant. He was in Ireland with him on the second occasion of the regiment being at Dublin. He says of Roger Tichborne: 'He looked up to my brother, and I think he was put into my brother's troop in order that he might make a soldier of him, if possible.' This witness is questioned as to his recollection of Roger Tichborne, whom he describes as a thin fine young man, of the height of about 5ft. 8in. He says his voice was a soft low voice. 'He walked peculiarly,' adds the witness, 'but not awkwardly.' The defendant was asked in his examination about Captain Morton's charger, and in reply he said he had a remarkable horse, which was roach-backed. Accordingly, Captain Morton was asked, 'You remember you

ther's charger?" "Yes," "Had he a roach-backed horse?" "Never; he bought a horse which might be called roach-backed, but he bought it at York in 1853, after Roger Tichborne had left theiment." Subsequently the witness fixed the date as 1852.

A Juror.—It is clear that he bought the horse at York, because I saw it in York myself.

The LORD CHIEF JUSTICE.—Then you will know either it was a roach-backed horse or not.

The Juror.—I really cannot say.

The LORD CHIEF JUSTICE.—This gentleman asks also to a remarkable conversation which took place between the defendant and Captain Polhill Turner in his presence on one of the occasions when the defendant was going out of court the former trial, in May 1871. He was asked: "On the rising of the Court, did you and Captain Turner speak to him?—Captain Turner spoke to him, and so did Major Kellett. Defendant spoke to Major Kellett and said, "I know you." Major Kellett said, "I suppose you do; who am I?" when the defendant said, "You are Captain Polhill." Captain Polhill Turner was there at the time, and he asked him, "Who am I?" and the defendant, after looking at him for some time, said, "I don't know."

It is certainly very remarkable that there should have been such an exhibition of ignorance respecting persons with whom, one would suppose, Roger Tichborne would be familiar. Then the witness asked about the peculiarity of the thumb, and says, "I saw a great deal of him, but I never served any peculiarity about the thumb. The thumb is very unlike Roger Tichborne's, and had an accent."

Another witness, Jeremiah Haly, used to keep a racquet-ground at Clonmel, and he says, "I link his knees turned in a little. He was not what is called "in-kneed," but his knees were a little loose. He had a narrow chest." In re-examination, he says that he has seen many better-dressed officers, and goes on—"If he were standing upright, he would seem inclined to fall in at the knees."

These are the witnesses for the prosecution who speak generally as to the personal appearance of Roger Tichborne. There are two or three witnesses who go beyond the mere recollection of that appearance, who have had interviews with the defendant, and who lay before you what passed at these interviews, for the purpose of showing that the defendant failed to remember things which Roger Tichborne must have remembered. One of these has already come under your notice, and at this is the conversation with Captain Fraser about a present made by Roger Tichborne, and the significant letter written by the defendant. Then you have the account of what really happened, so that you are enabled to see whether the defendant has any real knowledge of that transaction, or whether he has gained it from some extraneous source.

Mr. M'Evoy is another of the officers of the Carabineers, and he was induced to go and see the defendant at Croydon. He was acquainted with a Major Seedman, who was walking with Mr. Holmes on one occasion, when they met Mr. M'Evoy. He was introduced to Mr. Holmes, when he said he would like to see the gentleman who called himself Sir Roger Tichborne. Upon that Mr. Holmes said he would make arrangements for a meeting. Mr. M'Evoy says, "I expressed a desire to see Roger Tichborne again," when Mr. Holmes said, "It is a long time since I had seen him, and no doubt

he was very much altered." Two days after that, he gets a remarkable letter from a gentleman who has mixed himself up in these proceedings—Mr. Guildford Onslow—who has made the identity of the defendant a matter for speculation and betting. But men who bet on such matters should be careful how they endeavour to influence the events to which their bets relate. Mr. Onslow in his letter says:

"Oblige me by going to Essex Lodge, and calling on your old friend Sir Roger Tichborne, who is living there, and let me know what you think about him. I have got 600*l.* on his being the man. Mind, and do not be misled by first appearances, as he is so altered."

If Mr. M'Evoy had gone and seen the defendant, and had come to the conclusion that he was the Sir Roger Tichborne he had known in the Carabineers, of course he would have been asked to be a witness for the defendant.

With regard to this betting, if you make a thing the subject of a bet, you must keep your hands clear of anything that would affect the result; and when I look at this letter, and also at the part taken by Mr. Guildford Onslow to excite to the utmost of his ability a storm of popular passion on the subject of this affair, I must say that it would have been much better if that gentleman had had no pecuniary interest in the result which he was so anxious to bring about. However, so it is, and I can partly understand the motives which induced Mr. Guildford Onslow to do so many things which I think propriety and decency ought to have induced him to abstain from. As I have said on more than one occasion, these popular meetings tend considerably to interfere with the administration of justice, and gentlemen who have a pecuniary interest in the result should be the last to endeavour to foment popular passion and prejudice on such a subject as this.

The defendant writes on the 1st of April 1867 to Mr. M'Evoy, stating that he had called at his club on the Friday before, and was unable to see him. He had seen Mr. Holmes, and asks Mr. M'Evoy to come and dine at Croydon with him on Wednesday evening, concluding the letter with, "I remain, my dear Ned, yours truly, R. C. D. Tichborne." Mr. M'Evoy was called, and when asked whether he was spoken to as "Ned," replies that he might have been called so once or twice, but he was generally addressed as "Mac." He is next asked with reference to his visit to the defendant, and he says:

"When I arrived at the house I was shown into a room on the first floor. I remained there for some time. I heard rather loud discussions, and one of the voices I thought reminded me once or twice of Roger Tichborne's in accent and everything. This lasted for about two or three minutes. After the conversation the door was opened, and I had a long conversation with the defendant. As soon as he came into the room he walked slowly towards me, and directly I saw him I felt perfectly certain that he was not Roger Tichborne. I went towards him, however, and held out my hand, and said, "It is a long time since we met." I was taken quite aback. He shook hands with me, and said, "Yes; it is a long time," and then asked me to sit down. I sat down, and we had a long conversation on various matters. I put several questions to test his recollection if he were Roger. One of the first things I asked him was when he was in the regiment, and he replied that he got his dis-

charge, or was discharged, at Canterbury. I thought whether it was not time to cut short any further conversation; but Mr. Holmes having asked me to examine him very particularly, I continued the conversation. I thought no officer would ever think of talking of being "discharged" on his retirement.

The witness also asked him some questions respecting the Bellew family, but in his replies he confounded Lord Bellew's residence with that of a Mr. Bellew in a different part of Ireland. The witness endeavoured to test him in French, but he seemed to have no knowledge of it, and he said something about having been kicked by a horse, 'by which,' says the witness, 'I thought he wished me to infer that his French had been kicked down his throat.' After some time the defendant broke out with the *Marseillaise*, and the witness thinks he used two or three French words. 'The great shout he made at the word *marchons* might possibly have been pronounced in the voice of Roger.' But he adds, 'I never heard Roger Tichborne sing that song.' After a while Lady Tichborne made her appearance, and, hearing her speak, Mr. M'Evoy found it was her voice which he had heard on the other side of the folding doors, and which he thought like that of Roger Tichborne. The witness says defendant's hair was very much lighter than Roger's, and he affirmed that the defendant's hair now is a great deal darker than when he first saw him. He was sure from the first that the defendant was not Roger Tichborne, and denied that at this interview he expressed any opinion beyond what his manner might be supposed to imply.

The next witness is Brand, the gamekeeper, who received the following letter from the defendant:

'Feb. 6, 1867.

'Brand,—It is a long time since you see me; therefore I suppose you have almost forgotten me. I should like to see you again; and therefore if you can find time to come to Croydon I will pay your expenses.—Yours, &c.,

'R. C. TICHBORNE, Bart.'

In consequence of this letter Brand, on the 22d of March, went down with Moore. Bogle opened the door, and after a while came back and said Sir Roger was not at home. Brand said he had come a long way, and could not go back without seeing him, and accordingly went into the town for a couple of hours. While there he met Bogle, and had a long conversation with him. When he went back to the house he was admitted and saw the defendant. They had a conversation about Roger Tichborne's guns and his dogs Spring and Piccrust; and the defendant asked what had become of the dogs. Brand told him that they had been sent to Upton, and that Mr. Gosford had the charge of them. The defendant also asked the witness whether he recollected riding his uncle's pony up the park. Witness said he did, and asked the defendant what pony he was speaking of. He went out of the room, and on coming back said the pony's name was Louisa. Brand said the defendant asked him what had become of the single-barrelled gun which had been given to him by his uncle Edward. Sir Edward, according to the witness, never had a gun in his life, but still that is no reason why he should not have made a present of one to Roger. Then comes a more important matter than either of the foregoing. Brand said to the defendant, 'Where was I living at the time you were living at Tichborne-park?' His reply was, 'Down at the Verrals,

among the trees.' 'That,' adds the witness, 'was not correct, as I lived in a cottage in the village, near the church.' He says Roger saw him in his cottage almost daily, and sometimes a dozen times a day. The Verrals was not purchased until after Sir James came to the property in 1858 or 1859, when of course Roger Tichborne could not have known it. He adds that he lived in the garden's cottage when he first went to Tichborne, and in two or three other cottages afterwards. He saw the defendant every day for six weeks during the last trial while he was being examined and cross-examined, and says decidedly he is not Roger Tichborne.

On cross-examination he admits that Roger had a twitching of the nerve in the left corner of the eye when he was excited. As to the ponies he says there was a brown and a gray or white one, but Sir Edward never used the latter. That becomes material when we come to the statements of the defendant on the subject. The witness afterwards goes to see the defendant, and tells us 'The defendant said if I would stick to him he would stick to me, and I should never want so long as I lived.' I said, 'I am very much obliged to you for your offer. I never wanted yet, and I hope I never shall; but as to swearing you are Roger Tichborne, I will see you — first.' In cross-examination an imputation was made in reference to a debt which the witness owed to a Mrs. Cooke. He wrote to her, 'If you will wait you shall be paid all that I owe you as soon as I can. Mr. Bowker has promised to pay me what is due to me shortly. There has been a deal to do about the Tichborne affair. I was quite certain that it was Sir Roger at first. I received a letter from Sir Roger last Wednesday. You need not be surprised to see me at Alresford after a bit again.' He says that when he wrote that letter he had not seen the defendant nor formed a judgment as to his identity. But this letter was made the foundation of a very violent attack upon Mr. Bowker. It turned out that when he left his place as gamekeeper at Tichborne on the death of Sir Alfred, who died insolvent, some money was owing to him, and Mr. Bowker had told the man he should soon be in a position to settle all the outstanding accounts. From this it was sought to be inferred that Mr. Bowker was going to bribe Brand to say the defendant was not Sir Roger when he knew he was.

There is another witness who speaks to conversations with the defendant, and that is Colonel Greenwood, who says that on one occasion, when he was in the train, Colonel Lushington suggested that he should go into the same carriage as the defendant. He went in, and the defendant spoke first, saying, 'You don't seem to recognise me.' Colonel Greenwood replied, 'Not in the slightest.' They sat silent a few minutes, and Colonel Greenwood asked, 'Is it by your wish that I am here?' The defendant answered, 'No, but I do not object.' When the train stopped, Colonel Greenwood walked out and joined his own party, the Misses Higgins, whom he was escorting up to town. At another station Colonel Lushington came to him again, and pressed him very much to return, as the Claimant was anxious to give him an opportunity of cross-questioning him. So he returned to the carriage in which the defendant was travelling.

Colonel Lushington suggested to Colonel Greenwood and the defendant that if they knew each other as well as he supposed, there would be something which they could both recollect; a

the defendant asked Colonel Greenwood whether he remembered hiding his coat one night in a hedge on the way to London. The colonel said, 'The first part of that is correct, but I was not going to London.' He told the story correctly. It seems that a lady named Legge was taken ill, and was supposed to be dying. She wished to see a relative, but in those days there was no telegraph or means of communication. Colonel Greenwood made up his mind that he could walk all the way to Kingston, and he put his overcoat in a hedge, and it was afterwards found by one of the labourers and taken home. The defendant had got hold of the story, but he did not know its details. This happened in 1850, when Roger Tichborne was in Ireland, so that it could only have been known to him at second hand, and so also it had come to the knowledge of the defendant at second hand. It is for you to say how much importance you think attaches to it.

There is another thing that Roger Tichborne would perhaps have recollected better. Miss Doughty had a favourite mare called Rowena, and Colonel Greenwood had taught her to ride, for it is well known that Colonel Greenwood was one of the first horsemen of the age. The defendant said that the colour of the mare was gray, whereas the only gray mare was one that Mr. Gosford had, and which was used as an extra horse when one was wanted. The third part of the conversation between Colonel Greenwood and the defendant related to what occurred when the colonel accompanied Roger Tichborne to Sandhurst on his examination. They went to Sandhurst the night before the examination, and wished to put up at the Duke of York hotel, but they could not get accommodation there, and the result was that they had to go to a small public-house near the station called the Tumble-down Dick. There they met Mr. Danby Seymour, who, when he found Colonel Greenwood had charge of Roger, merely dined with them and then went back. The next morning they took breakfast at the hotel in Sandhurst. The defendant, however, said they slept at Sandhurst, and when Colonel Greenwood remarked that they did not sleep there, the defendant said, 'O, you are alluding to the Tumble-down Dick.' In short, the defendant exactly reversed the facts which occurred. The question is whether you attach very much importance to such a mistake being made so long afterwards. There is one other subject which Colonel Greenwood tested him upon. When Roger Tichborne was at Tichborne in 1849 Colonel Greenwood gave him his first hunting-coat; but when the question was put to the defendant, he said it was Mr. Marks who gave it him, which was certainly a mistake. Now those are the witnesses, besides Major Fraser and Mr. Gosford, who have told you of the mistakes which the defendant made, and they constitute the evidence on that part of the case.

Now we come to the evidence for the defence. I pass by the mother for the present, and go on to Mr. Biddulph, the only other relation of Roger Tichborne who has recognised the defendant. Mr. Biddulph had only one opportunity in the course of his life of becoming acquainted with Roger Tichborne, and that was on the occasion of the visit of the latter to Bath in 1849, shortly after he left Stonyhurst. Mr. Biddulph was at that time staying with his mother and sisters at Bath, and, as a relation of the family, he of course made the acquaintance of Roger, and he says that during that period they were very intimate. It appears

that Mr. Biddulph frequently visited the hotel where Roger was staying. On one occasion they lunched together, and afterwards, instead of going into the smoking-room, they went to Roger's bed-room, where the latter produced two death's-head pipes, which they smoked. Well, when Mr. Biddulph went to see the defendant in July 1867, he did not at first recognise him, but says that he had only a vague impression that he was like the Tichborne family. He said that he 'was impressed with his likeness to the Tichborne family,' or rather to those whom he had known. With regard to the defendant's voice he said, 'I could fancy at times it was Alfred speaking.' He says, 'I asked him when I first met him, and he said at Bath. I said, "You were staying with your uncle Robert," and he said, "I was about staying with him, but I was staying at an hotel. At the White something nearest to the market-place." He stayed at the White Lion.' The witness asked him whether he remembered his mother and sister, and the defendant said he did, and that he used to walk with them. Then he says he asked, "'Do you remember me having lunched with you at the hotel?" and he said he did not. I said, "And that we afterwards for some reason or other smoked in your bedroom? Had you any peculiar pipe?" and to that he replied, "Yes; I had two death's-head pipes." The death's-head pipes made more impression than anything else.' Then he further says that on another occasion he became godfather to the defendant's son while he was staying at Alresford. After the christening the defendant and he took a ride round the park, when they came to a path. Mr. Biddulph said, 'That is the road we took when I rode with Kate Doughty to Brooklands.' 'No,' said the defendant, 'it is further on,' and when they got further on he said, 'That is the road you took, and you passed the Lover's Seat.' He was right. With regard to the peculiar twitch he was asked these questions:

'Did you say you did not recollect Roger Tichborne having a twitch?—I don't remember Roger Tichborne having a twitch so much as the other members of the family. Was it when you went down to Croydon to see the defendant that you remembered Roger Tichborne having a twitch in the eye?—I don't think he had.'

The evidence is very deserving of consideration. If the defendant, without acquiring knowledge from others, recollected that, as far back as 1849, when he was staying at Bath, he was staying at an hotel there, and recollected the particular hotel he stayed at, though he did not remember whether it was the White Hart, the White Lamb, or the White Lion; if he recollected that the hotel was at the corner of the market-place, it strongly goes to show that the man who recollected such circumstances must be Roger Tichborne. But that statement becomes somewhat shaken when we see the cross-examination. It seems, before this meeting with the defendant, Mr. Biddulph, a client of Mr. Norris, the dowager's attorney, had gone to dine at Mr. Norris's, and there had met a Mr. Tucker, a gentleman engaged in raising money for the defendant, though Mr. Biddulph says the fact was not known to him at the time. At this dinner party there was a good deal of conversation as to the possibility of Mr. Biddulph recognising Roger Tichborne in the defendant. He said he had some questions by which he should be able to test him, and he was asked as to what occurred at Bath. On this subject he is asked in his examination:

'In the course of your conversation, did they make inquiries as to where you had seen Roger

Tichborne?—I think so. That is to say, in what room, and in what house?—I believe so. I have no doubt of it. I can only give the general tenor of what was said. Did they inquire as to what room it was in?—I cannot answer. I have not the least recollection whether they did or not. Was it the White Lion?—It may have been. Do you remember that they asked you how they amused themselves with Roger Tichborne?—No. You won't undertake to say you did not tell them?—I should be sorry to undertake to say what I had forgotten. Did you say you smoked with him?—I have said so. Did you say it was a pipe with a death's head?—I rather think I did not. Will you swear?—No, I won't.

I then tried to sum up what he had deposed:

'Did I not understand you to say that you did not mention the death's head, but that you did mention that there was something peculiar about the pipes?—I very likely did say I knew something about smoking certain pipes that I could tell him by; but I did not mention the death's heads.'

Then Mr. Hawkins asked him whether it was the death's-head pipes which made him identify the defendant as Roger Tichborne, and he replied that he went there with the impression that he was coached by Bogle, and had had access to Roger Tichborne's diaries, and if he had had the name of the hotel quite correct he should have thought so; but when he said it was a White—something, near the marketplace, and knew about the pipes, and answered questions correctly about his uncles and aunts, he then changed his mind. It is quite clear that this witness, Mr. Biddulph, would not have taken upon himself to say the defendant was Roger Tichborne if it had not been for the conversation, inasmuch as he admits he had not sufficient recollection of Roger Tichborne as to be able to speak to his identity.

Now, if the witness mentioned the name of the hotel at the dinner at Mr. Norris's, can we be sure that the defendant was not informed what hotel it was and where it was situated? Mr. Norris was the Dowager Lady Tichborne's attorney, who obtained the list of the Jesuit Fathers at Stonyhurst, and Mr. Tucker was a money-lender who had interested himself on behalf of the defendant. These gentlemen might have told the defendant in the most innocent way what Mr. Biddulph was going to question him about. They might very naturally have said, 'He is a relation of the family, who remembers having met you at Bath when you were staying at the White Lion, and he is going to test you about some death's-head pipes.' Of course, if they believed they had got hold of the real man, they would not scruple to tell him that a gentleman was coming to test him. I only put this hypothetically, but supposing the defendant not to be the true, genuine man, what would be more easy than to say, 'Bogle, what was the name of the hotel I stayed at at Bath?' Bogle would not dream that the question was asked with a view to the furtherance of a fraudulent intention, but would think it was put in order to revive his recollection. Mr. Biddulph would not say that he did not mention the hotel at the dinner. He may have done so, but, even if he did he said nothing about its being near the marketplace. Still, some one else might have informed the defendant where it was situated.

Such an explanation will not apply, however, to the crucial point—namely, the death's-head pipes—unless Mr. Biddulph was incautious enough to let out before Norris and Tucker the very character of the pipes as to which he was going to in-

terrogate the defendant. But suppose Roger Tichborne's pipes had been sent to Upton with his other things, and the defendant had seen them there, that circumstance would at once supply a solution of the difficulty. I do not say it was so. Far be it from me to make such an assertion; but if you now and then meet with a startling difficulty you ought to endeavour to find a solution in other circumstances. We know that Roger Tichborne's things were sent to Upton in two large boxes. They may have been preserved, and if the death's-head pipes were among them, a person there might suggest the answer to be given to a question concerning a pipe of peculiar form. Mr. Biddulph was induced to make an affidavit on the 13th of June in favour of the defendant, and in this affidavit he is made to state his belief that he came upon the defendant unawares on his visit to Croydon, and that the defendant could not have prepared himself to answer the questions. Yet, in his cross-examination, Mr. Biddulph admits that this was not so. Now, if we find affidavits so framed as not to present the exact facts it may be inferred that the gentlemen who drew them up would not be over-scrupulous about furnishing the defendant with the information required in order to answer questions in a satisfactory manner.

Well, these are the only materials which Mr. Biddulph had for forming his opinion. I do not mean to quarrel with the honesty of his conviction. He is a gentleman of character and position, and I am quite sure that he would not do anything he thought wrong. But I cannot help thinking that he made up his mind in a very firm and determined way. His adopting the defendant at once against all the rest of the family except his mother, expressing a strong opinion in his favour, going down and standing godfather to the defendant's son, upon no other ground except his remembering the hotel and the death's-head pipes, does strike me as a very singular thing.

Then there are several tenants upon the Tichborne estate and a good many workpeople who have been examined in the defendant's favour, and we will travel over their evidence as rapidly as is consistent with its due consideration. The first of these is Henry Welsh, a bricklayer, who knew Roger from the year 1845, and remembers him when a boy taking up his hammer and chopping lead off the roof of the chapel at Tichborne. When Welsh saw the defendant in 1867 he asked him whether he remembered this incident, and he said 'O, yes; I remember chopping the lead off to make bullets.' Well, that is a thing which Roger might remember, and which the defendant would not be likely to invent, and, therefore, it is a striking circumstance. The witness is asked whether he had mentioned this to any one, so that it might come to the defendant's knowledge. Now, if the question was put by Welsh to the defendant in a simple interrogatory form, and answered correctly and off-hand by the defendant, it would be a striking fact in his favour. But the witness made an affidavit, for whenever a witness in any way identified the defendant they immediately made him swear an affidavit, which was used for catching the next person. In his affidavit Welsh is made to say, 'I remember Roger, and particularly recollect his forehead and a particular gait with his right leg and foot.' I am quite sure that that is not the man's language. He goes on, 'I afterwards saw him at the Swan at Alresford, and recognised him. I recollect that on one occasion while I was at work the plaintiff took my hammer and cut the lead away. I asked

him if he remembered cutting the lead from off the roof, and he said, "Yea." So that you see instead of his telling the witness of the circumstance, the witness asks him if he remembers it. This affidavit is also remarkable as showing the way in which these affidavits are concocted. It goes on: 'He said he knew my wife, who was formerly Mrs. Norris, who was house carpenter at Tichborne, and he went to her for nails.' She says that she remembered his coming to her house for brass-headed screws and nails frequently, and the husband says scores of times; but she on another occasion said that she could not answer for more than twice.

Then there is Mrs. Noble, who recognises the defendant. She says he had the Tichborne walk

and the Tichborne back. Her husband, Mr. Noble, also speaks to the walk, which he describes as very like that of Sir James Tichborne. Then Lilly-white spoke about having seen Roger Tichborne grubbing up the old moor with an axe which he took to be mended; and on his bringing it back Roger gave him the change, which amounted to 1s. 6d. This is a circumstance likely to be remembered by a simple rustic, and it may have been mentioned by him at the village alehouse when he heard that Roger Tichborne was coming back to England, and in this way possibly the fact may have come to the defendant's knowledge. I do not say that it was so: but it is our duty to sift evidence of this kind in order to ascertain what it is worth.

FOURTEENTH DAY, Thursday, February 19, 1874.

Gentlemen of the Jury.—We were dealing yesterday with the Hampshire witnesses—old tenants, servants, and others who have lived in the neighbourhood of Tichborne, and who have given evidence in favour of the defendant, and yesterday I closed with the evidence of Henry Noble. I now come to that of Thomas Lilly-white, who spoke in reference to the grubbing up of the old oak moor. He says he remembers that when Roger Tichborne was cutting the roots of the tree, the axe with which he was working broke, and he desired this young man, as he was then, to take the axe to the smith's to get it repaired, and he gave him 2s. 6d. to pay the smith. He did so; the charge was a shilling, and Mr. Roger, he says, told him to keep the 1s. 6d. change. That, no doubt, is a circumstance which was likely to create an impression on the young fellow's mind. He says that when he heard that the defendant had come to Alresford, he went to see him. He did see him, and he says that the defendant is Roger Tichborne.

The next witness is James Morley, who was in the service of Sir Henry, and afterwards in that of Sir James Tichborne, as butler. He afterwards set up in business on his own account, but continued to call at Tichborne House, and used to bottle wine for the family. He knew Roger Tichborne from his childhood. In October 1847, he received an invitation to go and see the defendant at Alresford, and he went. At first, he says, he thought he was not the man, but after a bit he began to recognise the upper part of his face. Like many of the other witnesses—and this is remarkable—he does not speak of the defendant's likeness to Roger, but of his likeness to some member of the Tichborne family, particularly to his uncle Sir Henry. It is extremely difficult, in going through the evidence of this witness, to ascertain what part the defendant took in the conversation, and what part the witness took, and, of course, that makes all the difference in the world. If the answer is suggested by the question—such as 'Do you remember such and such an occurrence?' naming it—it is very different from a question which leaves the person interrogated altogether to his own memory. The witness said they sat down, and had a talk about the family estate at Westhead. The defendant asked him if he recollected when the estate there was out in two. The defendant said he did, and his father disapproved of it. The witness then observed that he heard Sir James (then Mr. James) say he did not like the estate to be out in

two. The learned counsel then asked what passed between the witness and the defendant, and he says:

'He asked me if I recollected when the new inn was built, and there was no right of way to it. Then I told him, and he mentioned the name of the man who built it. I mentioned that Sir Henry stopped the way to the inn; and the party was obliged to come to his terms for making a road to it. I asked him about the sale of the property in Tichborne Street. I said it fetched 18,000*l.*, and he said it was only 16,000*l.*, and was worth twice as much. He also said it was sold to provide portions for Sir Henry Joseph's children.'

We do not know whether that was so or not; but all these were matters about which Roger Tichborne could personally know nothing. They all occurred before his arrival in England. Sir Henry Joseph, in whose baronetcy these transactions occurred, died before Roger was ever in England. Then comes an extraordinary dialogue about Alresford Old Pond. The witness says:

'I asked him when it was that the family sold that piece of water, and he asked me what piece of water I meant. I did it to try him. I said "Alresford Old Pond," and he replied, "That never belonged to us." I said, "How was it then that my ancestors had the keeping of it for so many years? I have one of their guns as a heirloom." He then said, "The property never belonged to us; but we had fishing and swan rights over it." That was correct. I did myself believe it once belonged to the Tichbornes, and most people thought so; but when I was talking to him I knew that they had only the fishing and swan rights over it.'

Well, no doubt the possession of this knowledge by the defendant was very striking; but it must be taken into account that as Roger Tichborne could know nothing of it personally, and could only have learnt it from statements made to him, so may the defendant have learnt it from the same sources of information. Mr. Baigent was in close association with him at Alresford, and as he knew the whole history of the family and wrote it, he was very likely to mention this fact. Rous, with whom he had been in conversation, would also have been able to give him the information, having been a clerk of Mr. Hopkins. The witness says he recognised the defendant by his appearance, but not by his voice. He is asked whether he made an affidavit, and he says it did, and that it was read over to him. The

affidavit is produced, and in it he is made to say, 'The more I looked at him, the more I was convinced. The eyes, eyebrows, and general expression of face, and his voice are unmistakable.' Yet the witness told us he did not recognise him by the voice. That is the way these affidavits were got up. Like many other witnesses, this man, instead of finding a likeness to Roger Tichborne, is struck by a resemblance in the defendant to some member of the family.

The next witness is Elizabeth Stubbs. She says that Roger Tichborne used to come over and shoot on her husband's farm and visit their house. When the defendant was at Alresford, in October, there was a sale at a neighbour's, and the defendant came to Mrs. Stubbs' house after the sale to lunch. When he came in he saw a picture opposite the door, and said, 'That is not the old family picture.' She told him to look round, and having done so the defendant remarked that she had got the picture done up. The portrait was one of the witness's great-great-grandfather, and was peculiar from the old style of dress, and she was struck by the defendant appearing to recall the old picture. It must be borne in mind that the picture was very well known about the neighbourhood, and that the defendant had seen her husband, who might have said something about it. That may be the case. Or it may be that the defendant recollected what he had before seen. Dr. Kenealy put a question as to the defendant's identity in this form, 'Is there anything about this gentleman that reminds you of any of his relations?' steering clear of asking her, was he like Roger. The witness replied that he was like Sir Henry Tichborne about the shoulders, and countenance also.

William Paul, a blacksmith, is the next witness, and he gives evidence from which we may plainly see that some persons connected with this case have not been over-scrupulous as to the manner in which they have endeavoured to ascertain what the witnesses were likely to say. This man Paul says that one day, when a boy, he was out in the Hassocks, which are clumps of trees on Tichborne Downs, birds-nesting, when he was seen by Roger Tichborne, who had his dog and gun with him, and who was attended by Mansbridge, a game-keeper. Mansbridge was about to beat the boy for being in the trees, but Roger interfered, and the matter ended by Roger giving him a piece of money. Paul also tells a story of Roger Tichborne on another occasion, knocking a basin of soup out of his hands in the kitchen at Tichborne House, and being reproved by Miss Doughty for so doing. Well, Paul sees the defendant at Alresford, out fishing; and sees him a second time, but still he was not, he said, to be convinced, until he had had an interview with him. Paul accordingly sees Mr. Guildford Onslow, and tells him he would like to see the Claimant, and ask him a few questions. Mr. Onslow outs with his pocket-book, asks Paul the subject of the questions, and writes them down. It was, he states, 'Whether Sir Roger could recollect seeing a boy in a certain place in Tichborne-park, and giving him money, and what money it was?' Mr. Onslow then asked him what place, but witness says that he would not say where it was. Arrangements are subsequently made, and the witness comes to town and sees Mr. Onslow, who tells him that Sir Roger remembered seeing a boy in Tichborne-park, and giving him some money. Then Mr. Onslow asked him to tell him more about it, but Paul said, 'No. I should like to see the gentleman.' Ultimately the wit-

ness sees the defendant, Lord Rivers and Mr. Guildford Onslow being present—a rustic in the hands of gentlemen very much cleverer than himself. He is asked:

'Did you have a conversation with the defendant?—Yes. Was that the first time you talked with him since he came back?—Yes. How long did the conversation last?—About half an hour. Did you recognise him?—Yes, from what he recollected and showed me while in the presence of Lord Rivers. What did he show you?—The place where I used to see him in Tichborne-park. From his features and voice I knew he was the man.'

Then there is Henry Powell, Roger's old music-master, who used to be an inhabitant of Alresford, and frequently went there from Winchester, where he now resides. He went to the Swan, and had a conversation with the defendant as follows:

'As soon as I got into the room the Claimant came up and said, "This is Powell." I said, "Yes, it is," and he said, "How are you?" I then said, "I am very well, thank you; but you have the advantage of me;" but after looking at him for a second or two I said, "Unless it is Roger Tichborne; but you have got very stout." He replied, "And you have got stouter also, and have cultivated a moustache." I said to him, "Do you ever practise now?" and he said, "No, I cannot," pointing to his mouth, where two front teeth were broken. He told me that a horse had kicked him—knocked out two of his teeth, and injured his nose in Australia.'

No doubt that is a very remarkable circumstance, unless the defendant had been told by some one at the hotel that it was Powell, the music-master. He does not know where the defendant came from, beyond the fact that he got out of his trap. Whether he was told that it was Powell we have no means of knowing. He is asked about his recognition of the defendant as Roger Tichborne, and he says he recognised him after looking at him awhile; he recognised his features, and especially his forehead; and then he is asked about the hair, and he says that the defendant's hair might perhaps be a shade lighter than Roger's, but it was brushed in the same style as formerly. Then he is asked about his walk, and he says that, as far as he could recollect the style of Roger's walk, it was the same. In cross-examination he is asked about Roger's voice, when he said the only difference he could detect was that Roger used to have a French accent, which the defendant had not. The defendant's voice might be a little coarser. He also thought that the defendant might be an inch taller than Roger. The fact of the defendant knowing this witness at once, unless you believe that some one had told him that it was Powell, is strong evidence in favour of the defendant.

Then comes William Mansfield, who was formerly under-keeper at Tichborne. He heard of the defendant's arrival at Alresford, and went to see him at the Swan. He says he knew him at once to be Roger Tichborne. Then, as to his recollection of Roger, he says that he was a tall, thin young man, with dark hair. The defendant asked him if he recollected what they had ever been doing together, and he says:

'I said I could. He asked me then if I could recollect his shooting the gun off my shoulder, and I said I could. He then asked me if I could recollect the time when he used to play the French horn, and I said, "Yea." He asked me'

I could recollect his dogs, and I said I could. He asked me what the dogs' names were, and I told him I could tell him, but he said he could tell them himself; they were "Piecrust," "Spring," and "Bess." But at first he could not recollect "Piecrust." A gentleman suggested that I should mention two wrong names and the right one, and that the defendant should choose from them. "Piecrust" was one of the three, and when that name was mentioned the defendant said, "That is the name."

Now it is worthy of remark that the questions are put by the defendant; the topics are suggested by him and not by the witness, and when he asks the question, and just as the witness is about to answer it, the defendant does so himself. It is as though the questions were selected, owing to the defendant's knowledge of the answers. It is strange, too, that Roger Tichborne should not know the name of a favourite dog which he had had for years. I can understand a person hearing the name of a dog for the purpose of making use of his knowledge of it, but forgetting it, and then recollecting it again when he hears it mentioned.

The next witness, Edward Pim, says he saw Roger Tichborne twice before he left England. On the first occasion Roger was planting some trees, and on the other he was out shooting, and witness was employed to 'beat' for him. On the latter occasion Roger gave him some tobacco to fill his pipe. That is all he knows about him, but he says the defendant is the man.

Mary Ann Byles says she used to see Roger about; and when the defendant came on the platform at a meeting in Southampton, in June 1872, she recognised him at once. She recognised him not by his resemblance to Roger Tichborne, but because he was so much like his uncle, Sir Henry Joseph, in everything but the hair and eyes. The defendant resembled Sir Henry Joseph, she said, in his sitting, in his manner, his shoulders particularly, and his nose, as well as in his general appearance. She admits she never spoke to Roger Tichborne in her life, but she says she has not the slightest doubt that the defendant is the man. Roger's hair, she adds, was not quite so dark as the defendant's.

John Ryas, a carter at Southampton, speaks of having had some words with Roger, 20 or 30 years ago, about a dog that went ranging in a clover field. He recognised the defendant at the Southampton meeting, not as Roger Tichborne, but because he had the Tichborne face. The defendant's features resembled those of the old gentleman who used to be at the house when the witness took up oatmeal in his cart, and who was called 'master' by the servants. He did not know whether that old gentleman was Roger's father or uncle.

Charlotte Grant, the next witness, was in the service of the Tichborne family from 1846 to 1852. After she left she went to her father's at Poole, where she again saw Roger. She did not see the defendant until the trial began. She asked him one question, namely, if he recollects a likeness that was being prepared while he was at Poole, that he should have taken abroad. That was the likeness of Miss Doughty. He answered that he did not have it—that it was not prepared; and that, she says, was true, owing to the illness of the photographer.

A Juror.—Was the Chili daguerreotype shown to her?

The LORD CHIEF JUSTICE.—I think not.

The Juror.—Nor to Mrs. Byles either, I think.

The LORD CHIEF JUSTICE.—It was not. The witness swears that in her opinion the defendant is Roger Tichborne. She used, she said, to attend on Miss Doughty, and said she saw Miss Brain correcting Roger's letters. On cross-examination she said she saw Miss Brain correcting the letters more than half-a-dozen times with her own pen. She used to say 'This is wrong, Roger,' or 'That is wrong, Roger,' and then make the correction. This, she saw when she used to take Miss Brain's luncheon to the school-room, and she is positive Miss Brain called him Roger.

The next witness was Thomas Parker, a farmer, who used to see Roger in the hunting field, and he says that Roger was at his house several times. He says he sold him a brown horse for 50*l.*, and was paid by a cheque from Mr. Gosford. He saw the defendant, and recognised him by his likeness to his uncle, Sir Henry. On that occasion he questioned him about the purchase of the horse, and the defendant remembered its colour, and also its name, Louisa, which it had before he sold it, and which was retained by Roger. On cross-examination it was elicited that he probably mentioned about the brown horse first, and he added that Lillywhite had charge of the horse.

The next witness was Thomas Muston, who was a groom at Upton, and was afterwards in the service of Roger. He says he saw the defendant at the Waterloo Hotel in the presence of Mr. Spofforth, and asked him to describe his horses. The defendant said he had a bay which he bought in Hants; Muston, upon that, remarked, 'I think you did not buy that horse yourself, Sir Edward gave it to you as a present.' He replied, 'You are quite wrong there, I bought it and paid for it with my own money. I bought another horse from a dealer named Cox, in London, and a third at Maidstone Barracks from an officer there.' As regards the two last, that was perfectly correct, for we know by Roger's letters that he did buy horses in London and at Maidstone; but with regard to the horse bought in Hants, I think there must be a mistake as to Roger's paying for it with his own money, because Parker, from whom the horse was bought, says he was paid by Mr. Gosford, Sir Edward's agent, with a cheque. It seems, therefore, more probable that it was a present from Sir Edward to his nephew on his leaving college, and that Muston was right. The witness says he was present when the horse was tried, and that he understood it was a present from Sir Edward. He asked the defendant if he had any dogs, and to describe their colour. The defendant said he had one white dog, Piecrust, and another which he described as a half-bred deerhound. The witness says:

'I asked him if he recollects where he bought it, and he did not recollect at first. He said he knew it was somewhere near the Mews in Mount-street. Then shortly afterwards he said, "I recollect when I went to buy the dog you took me through a shop into a back yard behind the shop." That was correct. I asked him how much he had given for the dog, and he said he thought about 4*l.* or 4*l.* 10*s.* That last sum was correct—4*l.* 10*s.* This was in 1849. He asked me how old I was, and I said 43 or 44; and I think he told me I was the same age as himself within a month.'

Then the witness is asked whether he told Carter or M'Cann where the dogs or the horses were bought, and he replies that he is not aware that he did so. It is certainly very remarkable that the defendant should have described the precise spot where he bought the dog, and one

does not see any solution of it except upon the hypothesis of its being a genuine recollection of the real Roger. M Cann must have heard about the horses, and I do not think so much about that or about the price of the dog being mentioned, because in all probability Roger's papers were not destroyed, and there may have been a receipt for the money among them: but the description of the locality is certainly very striking. The witness says Roger twitched his eyebrows. In answer to further questions the defendant, he says, told him he remembered that the first time he dined with the Carabineers he wore a frock coat which was found to have a slit under the arm, and that he had on Wellington boots and leather breeches. The defendant asked witness if he recollected the practical joke of the candles being put on the floor and the shirts being put in the coal-box, and witness said he did. He describes Roger as having very broad shoulders, and being pretty full in the face, although his clothes had to be padded to make him a good shape. Then he tells us what is certainly an untruth. He says he was not dismissed from Roger's service, but gave his master warning—"I discharged myself." Now, we know from Roger's letter to Lady Doughty that there had been frequent complaints about this man, and in the end that Roger reluctantly discharged him. The witness gives an account of the jokes played by the officers, and admits that he did not mention them at the last trial; but explains that by saying he was not asked. The photograph is shown him, and he says it is not a good likeness; but it appears that on the former trial he said it was good, and after that he admits it to be a very fair likeness, which any one who had known Roger would recognise. He is cross-examined as to having seen Father Guy before he was examined, and it appears that Father Guy had a conversation with him about Roger Tichborne and the defendant. He says he did not tell him about the horses, but he cannot say whether the dogs may not have been mentioned.

The next witness is Bailey, an innkeeper at Ropley, who knew Roger when he was a boy, and when he called at his house. He says that when Roger was a little boy he took him out on his uncle's horse Cock Robin, about which a good deal was said at the last trial, and he added that he had no doubt the defendant was Roger Tichborne.

Gentlemen, I now come to a witness with whose evidence I really do not know whether I should take up your time. He is, however, called for the defence, and I cannot, therefore, pass him over. I allude to Charles Lewis, the draper's assistant at Alresford. Before Roger Tichborne went into the Army this witness tells us he made his acquaintance and they became companions. That intimacy, he says, was a close one. Roger used to come out to meet him at night, without the knowledge of the family, and they used, he states, to go about together pursuing immoral practices; they used to get the clergyman's servant maids to go out on the Downs with them; they frequented low publichouses, and altogether led a very irregular life. His story is this: On one occasion they were out late on Tichborne Downs and a question arose as to their going to some publichouse. They had a dispute and Roger struck him over the head. This man, having a stick in his hand with a piece of iron at the end of it, made a thrust at Roger and wounded him in the left arm, and he puts the wound about the place where the defendant's arm is marked.

The wound bled freely, and, finding this to be the case, he started off to Alresford, leaving Roger on the Downs, and got some diachylon plaster, and on his return he took a scissors from his pocket, cut the plaster, and bound up the wound with it, wrapping the arm round with Roger's handkerchief. He fixes the time that this occurred as being in the Spring of 1848. He is positive, he says, of that from the fact that he broke his arm in the month of August following. He could not tell whether that wound left a scar and had not examined the defendant's arm.

Now, in the first place, taking the iron-pointed end of the stick and thrusting it into Roger Tichborne's arm, then leaving him standing or sitting on the Downs wounded while the witness went to get the sticking plaster, is by itself a very strange story indeed. But what is fatal to it is, that the man fixes a date, and fixes it by a circumstance. He says it was late in the Spring of 1848 that it happened, and that he is certain of the date because he broke his arm three or four months after the time in question. Now, Roger Tichborne was at Stonyhurst in 1848, and there was no vacation in the Spring, and therefore he could not have been at Tichborne at the time that this man has stated. I do not think that he is a man upon whose testimony very much reliance can be placed. Lewis says that upon one occasion he and Roger went to a publichouse kept by 'Old Chick,' and he took upon himself to say how many glasses of grog they had, and what they paid for them to a fraction. He gave us a detailed statement of a conversation which he had with the defendant on this subject, said that the latter remembered all that had occurred, and, referring to the grog and cigars, added, 'I have never paid you for them from that day to this. It is my turn to stand treat.'

The story is altogether a very strange one and told by a very strange witness. He was asked whether he ever saw Miss Doughty and Roger at the Lovers' Seat, and he said that he did. He hastened up there on seeing Roger and a lady, as he said, 'I thought he had taken one of my girls.' On cross-examination he is asked what he did pay for the grog and cigars, and his reply was 9s. 2½d. 'Did the defendant remember the amount?' and he said, 'Yes; he said it was over 3s. You saw Roger afterwards?—Yes. Why did you not ask him for the amount?—Because Miss Doughty was with him. O, your delicacy prevented you, did it?' To which he replied, 'Yes, I am very delicate.' There is a happy irony in this question, 'Did you, among other things, ask him how many lumps of sugar there were in the grog?' and with perfect candour he answers, 'I do not think I could tell myself.' He tells you of roaming over the Downs with loose women, going with Roger Tichborne, not to one, but to several publichouses, and, after all these years, he remembers the number of glasses of grog they had on one occasion, and the precise amount—to a halfpenny—that was paid. I do not think you will attach very much weight or importance to his testimony. He is contradicted by Lady Radcliffe, who said Roger used not to go out after dinner, but went, like other people, to the drawing-room. This man, however, says he used to climb over the wall to meet him. You will judge for yourselves whether what was said as to the wound on the arm was or was not meant to get rid of the inference that would arise from Dona Hayley's evidence as to the mark on Arthur Orton's arm, and to lead to the inference that having a mark where he was said to be wounded he must be Roger

Tichborne. So much for the Hampshire witnesses.

We now come to the witnesses from Poole, and the first of them is Martha Legge, the laundress. She knew Roger Tichborne during his stay at Upton in the latter part of 1852. At that time she was the laundress, and she says that on one occasion there was a bill for washing amounting to 16s. or 17s. They wanted to pay her, and Roger Tichborne produced a sovereign and asked Moore, the butler, for change, but Moore, having none, said, 'What shall we do?' Roger said, 'Give the laundress the sovereign;' and, turning to her, said, 'You need not bring back the change, for you have done the linen so nicely.' She says she recognised the defendant by his eyebrows and the upper part of his face. She often talked to him in the pantry. Whenever she came to the house she had a gossip with either Mr. Roger or Moore. She was asked whether she was not at that time known as the pretty laundress from Bath, and she says she was. 'And you used to have a gossip with Mr. Roger?' 'Yes,' she replied, 'but never alone. Moore was always there, or else Tom.' She speaks of having found a dog whistle in the grounds, and she gave it to Mr. Roger, saying, 'You gave me a sovereign last week; I give you a whistle this week,' and that he thanked her, saying he had lost it.

On hearing of the defendant being at Poole she called at the hotel to see him, but found he was engaged. She called later in the day and saw him. She mentioned her name—Legge—and he did not know it and could not, as she had married a second time. Then she mentioned the name of her first husband, and he knew, and said, 'You are my old laundress,' and told her her first husband was an old man, old enough to be her father, which she said was true. Then she asked him did he remember the colour of his fancy shirts, and he said some blue, some pink, some purple, and that he had pocket handkerchiefs with dogs' heads and glass beads in the corners, and that, she said, was correct. He did not recollect about the sovereign, but did about the dog whistle. She asked him did he remember sending her white trousers, muddy up to the waist to wash? He replied that he did more than once, as whenever he could not get his boat close to land he used to walk ashore. Now, his recognition of her—if he had not been told before she came that she had called and would call again—is a striking fact, as is also his description of the fancy linen which she said was not then very much in vogue. It may be that being left behind, the shirts and so forth were handed over with his other property to Lady Tichborne, and were preserved by her. That is, however, only speculation. It may be that Carter was about and knew her. That we do not know. If he knew her to be the old laundress from genuine recollection, it will be for you to say whether you can reconcile the fact with any other supposition than that he is Roger Tichborne. The witness says, 'When he smiled there was something like what I used to see in former days. I recognised him first by the smile, secondly by his knowing me as his own laundress, and thirdly by his telling me about my old husband.'

Then comes George Bromley, who knew Sir Edward Doughty and young Roger when visiting at Upton. He says that in 1852, when Roger was staying at Upton, witness chased a crippled wild goose which Roger had shot. They both claimed it, and Roger sent a boy to take it from him. Witness, however, would not give it up, but Roger

eventually came up and secured it. This witness says he saw the defendant, and knew him by his likeness to the Doughty family. Sir Edward had rather thick eyebrows, and the forehead of the defendant was like Sir Edward's. Witness says he saw the defendant at Poole, in 1867, with Mr. Rous and Mr. Holmes, and he asked Rous was that Sir Roger. Rous said, 'What made you ask?' Witness replied, 'I believe that is Sir Roger Tichborne.' Whereupon Rous said to the defendant, 'Some one seems to recognise you.' Then the defendant said, 'You have the advantage of me. What is your name?' Witness replied, 'Bromley, the son of William Bromley.' The defendant said, 'He used to do my work.' Then Mr. Holmes said he should like to see witness next day at the London Hotel. He called next day, and asked the defendant whether he recollect about caulking the black canoe and other matters. The incident about the goose happened in 1852. Witness talked about it to several people. It was in October 1867 that he saw the defendant at Poole. He heard before that the defendant was there. Having heard Roger Tichborne's voice, when witness came to see about the boats, he knew it again. Roger was a boy when he came about the boats, and witness was at the time a boy also.

Now, gentlemen, what the witness says about Roger wanting his father and himself to go and caulk the boats at Upton, and that this was in his younger days, appears to me impossible. We know the time Roger spent at Upton. It could have been only in 1848 or 1851. We know from Lady Dormer's evidence that in 1848 Roger Tichborne, having left Stonyhurst, did visit her upon one or two occasions. But when Lady Dormer was in the witness-box she was cross-examined by the defendant's counsel, with the view of showing that she must have had but an imperfect recollection of Roger Tichborne, because his visits had been for only one or two days. Now it is not likely that on a visit of two or three days Roger would have had a boat, and that he would require to have it caulked. Lady Dormer being pressed whether she was sure that Roger stayed more than one or two days, said he never stayed more than a week—it might have been a day or two less or more. It is not to be supposed that at that time he would have a boat. In 1851, Roger was there on a visit for a few days, but the witness does not say it was then, but when Roger and he were boys. Then we must go back to 1838, when Roger was there in the summer. But he was at that time only a boy of nine years old, and it is not likely that a boy of that age would have a boat, and would be trusted to manage it himself.

The defendant had another witness or two at Poole. There was an old lady, Miss Jones, who says that being one day up at Lady Dormer's her mantle caught in the catch, and Roger very kindly disengaged it. She wanted a rose and Roger cut it for her and gave her one or two more. She describes Roger as very thin, but says his eyes were the same as now. With regard to the movement of his eyebrows, she noticed one day that Roger as she thought winked at a young lady, at which she was rather shocked; at all events he moved his eyebrows as if he did. His hair was, perhaps, a shade or two lighter than it is now. There was a sort of lazy look about him. She attended a meeting at Southampton, where the defendant's friends assembled, and recognised him after a short time. 'I watched him,' she adds; 'I quite forgot where I was; I called out something aloud, and then was very much ashamed of myself. I

spoke to him that evening, and recognised his voice. I observed the lazy look about the eyes. He certainly was the old Roger Tichborne.'

Then there is the evidence of a man named Hewett, who was formerly footman to Mrs. Hopkinson, at Bath. We know that Mrs. Hopkinson used to go every year to Knoyle and spend part of the summer there; the rest of the year she lived at Bath. This witness recollects that Roger had small hands, and that he resembled Sir James Tichborne in his walk. Sir James walked with a sort of spring when he started off. He speaks also to Roger Tichborne having fancy shirts of a particular pattern, some striped and some with birds or dogs, or something of that kind, on them. He heard the defendant was at Swanesa, and he desired to see him. So he went to see him after having had a conversation with Mr. Crooke. He says, upon calling at the hotel where the defendant was, he asked whether he could see Mr. Onslow. He did not send up his name, because Mr. Onslow would not know it. Mr. Onslow came down-stairs and asked him what he knew about Sir Roger Tichborne. Then Mr. Onslow went up-stairs, and he remained on the stairs after Mr. Onslow went up for about two minutes. Mr. Onslow asked the witness what he knew about the Seymour family, and witness told him. Mr. Onslow asked if he thought he should know Sir Roger if he saw him, and the witness said he thought he should unless he was very much changed. When the witness went into the room he found there Sir Roger, Mr. Whalley, Mr. Crooke, and Mr. Onslow. He did not recognise the defendant immediately—not until he had been in the room for some time. He was told he would find Sir Roger in the room. He looked for him, and found that he had become exceedingly stout.

Then we come to the questions which are important as showing knowledge on the part of the defendant. 'I asked him,' says the witness, 'whether he remembered the colour of his grandfather's (that is Mr. Seymour's) favourite hunters.' He described them correctly; he said he recollected one was a brown mare with white legs, the other was a horse. He could not recollect their names. The horse's name was 'Phantom,' the mare's 'Lady Betty.' The defendant also recollected the colour of the pointers—one black and white, the other liver and white—but could not remember their names. Roger Tichborne used to go out every year, when he was at Knoyle, shooting with the keeper and the dogs. Well, gentlemen, it appears that the defendant recollected the colour of the dogs, though he could not recall their names; and when we remember his defective memory we cannot feel surprised that he should not have recollected the names of the dogs. Now, one would expect that Roger would have remembered shooting and sporting with the dogs. If the defendant is Roger it is quite natural that he should have remembered it. But there is this difficulty—that this man when he was cross-examined before about what occurred when he was at Knoyle declared most positively that he never had a day's shooting there in his life. Yet at the interview with this witness he not only recollects that he used to go out shooting at Knoyle, but he also recollects the colour of the dogs with which he went out to shoot. Then there occurred a farther conversation; they spoke about a butler of the Seymour family, named Thompson, who afterwards took a house in St. James's-place, and it was there that Roger always stopped when he was in London. Witness said, 'I asked him about

the colour of Thompson's hair, and he said it was "gingery." I asked him if he knew whether there was any defect in limb or otherwise in the man, and he said he was blind in the right eye; he told me also that Thompson shot from the left shoulder. That struck me very forcibly; it struck me he must be the man. Mr. Onslow was there all the time.' The defendant also told him about the butler's cottage at Knoyle, and said it was there that he and his uncle Alfred (he called him 'my uncle') used to go to smoke.

Well, gentlemen, the defendant recollects about the butler and his eye, about his shooting from the left shoulder, and about the cottage. Questions on all those points were asked him at the late trial upon cross-examination, and he did not remember anything about them. I shall have to call your attention hereafter to that part of the cross-examination. I should say it was quite possible for a man to have forgotten a great many of those things. But here the memory is perfect, the knowledge is exhibited. What has occurred in the meantime between the former trial and this interview with the witness? The whole case of the defendant in the former trial was brought out, and in that way attention must have been called to the points in which the defendant in this trial had failed to show the necessary knowledge. The defendant failed to show the knowledge which might have been expected from Roger Tichborne. But at a later period he knows that Thompson was the butler; he is quite aware of what becomes of Thompson, and he remembers that it was in a room of Thompson's cottage that his uncle Alfred and he used to smoke. All that is known to him. If we could be satisfied that all this was genuine recollection on the part of the defendant, that would have been evidence in his favour of a most cogent character. But so far from its being in his favour to have told this witness what he did, it would have been far more in his favour if he said he did not recollect.

And now we come to the evidence of Miss Braine, upon whom the heavy ordinance of the counsel for the prosecution has been directed much more in my opinion than the importance of her testimony called for. Miss Braine, as we know, was governess over Miss Doughty from November 1849, to November 1850, and she was at Tichborne on the 5th January 1850, when Roger came of age. That was the only occasion she ever saw Roger, and the period of his stay at Tichborne at the time was from nine to ten days. It was only when Mr. Tichborne was in the dining-room that Miss Braine had an opportunity of meeting him. She described him as slightly built, of middle height—that is, she said, 'under six feet'; sallow complexion, with long straight hair, brown in colour, his eyes peculiar, so that she felt she should know them again. 'I am not sure,' says the witness, 'that I could be certain of the colour; but I remember the expression. It is the expression of his eyes I remember; I remember them so perfectly. I cannot say whether I ever before saw eyes of that expression.' His eyebrows, she says, were thick. She had a perfect recollection of his forehead, but cannot describe it. When I asked her to describe it, she says, with an ingenuousness which is perfectly charming, 'Well, my lord, I would have to look at him now if I were to describe it.' She said she only saw him during that visit, which lasted ten days. She never saw him again. She saw him daily, at lunch or dinner or in the evening, in the drawing-room, when he was there

She remembered his voice and his lazy way of speaking—a way of dropping his words out of his mouth as if he was too lazy to deliver them properly. She could not, she said, describe his voice, or say whether it was harsh or soft, thick or clear. After this visit, she said, she lost sight of him. She heard of the loss of the *Bella*, and first heard of the return of the defendant some time in 1867. She then received a letter of invitation, signed 'Roger Charles Tichborne,' simply saying he had heard she had said she should know him, and asking her to go and see him. She wrote to say she would come, but he did not know the day she was coming, and, indeed, she did not go until a fortnight afterwards. She went in January 1868. She went on to say:

'He wrote first in 1867, I cannot say when. I think at the end of the year. It was some time afterwards before I went; it was in January 1868. I went to Wellesley-villas, Croydon, and was shown into a room, where I waited for him. He came in almost immediately. My first impression was one of extreme surprise at his size—a strong contrast to his former figure. I said, "Don't speak; sit down, and let me look at you." He laughed, and I said, after a few seconds, "Well, the eyes and brows are like Roger's; but the nose is not." Then he mentioned a fall he had had in Australia from a horse. He asked if I had not heard of it. I said "No," and then he described it. I observed a scar between his eyebrows, and spoke of it, saying, "I don't remember it." Then he took up a knife lying on the table. I said the hands are like Roger's, and he gave a very natural laugh and said, "Whose should they be like?"'

She examined his features very carefully, and noticed the same articulation as in Roger, though slightly altered on account of his teeth. Roger, she said, did not speak English well, and had a strong French accent. She did not remember noticing this at first, but she did, in subsequent conversations, notice it frequently; not in whole sentences, but in words here and there. I asked, 'What words?' She said, 'Well, the word "mountainous" he pronounced "mountaynyous."' I said, 'A Frenchman would not pronounce it like that.' The witness said:

'Well, it seemed to me that he carried the French pronunciation into the word. I asked him whether he remembered the ball. I don't remember his answer, but he evidently remembered it. I asked, "Do you remember my getting up to go into your room and locking the door upon you?" and he said he remembered the candle being blown out. It was the night of the servants' ball, and Moore, the old butler, came to me and said, "Mr. Roger has had wine enough; try if you can't get him to bed before you go yourselves." I don't remember what followed, which was to the effect that it would be better not to leave him up; but in consequence of this I told Moore to tell him I wanted to speak to him, and he came out of the hall, and I asked him to go into his room. He was holding his candle so unsteadily that I blew it out, and then locked the door. No one ever knew that. I never mentioned it to any one until after he came home. Of course the butler was cognisant of it, but he was a very old butler, and I don't think he would mention it in the house. There was something said about it next day. I don't remember what Roger said.'

Well, gentlemen, if this was an incident known only to Roger and Miss Braine, and the defendant recollected it, no doubt it would be a striking

thing in his favour. But do you suppose that this story was not perfectly well known about the house at Tichborne within a very few hours after it occurred? It does seem a curious combination of circumstances. Here is a young officer dancing away at this tenants' and servants' ball, and taking a little more punch than is good for him. The old butler, when the rest of the family were gone to bed, thinks it well to get Roger to bed too, before he should go further. He does not know exactly how to do it, so he says to the governess, 'How shall we get Mr. Roger to bed?' Then Miss Braine says, 'Tell him to come up, and he will find me at his bedroom door.' So the butler says, 'Miss Braine has gone up to your bedroom.' That was something like a challenge. He would be ashamed not to go. What would they have said in the regiment if he did not? Then he goes up speculating, I dare say, upon what Miss Braine wanted. He finds her at the bedroom door, and thinks she is going in first; but, instead of that, she lets him pass in, then blows out the candle, locks the door, and goes away, leaving him desponding in the dark. Do you suppose the butler did not speak of that? It is contrary to all our experience of the habits of domestics to imagine that all that would not be told in the housekeeper's room next day. We cannot suppose that Bogle was not aware of it, or that, having been aware of it, old Bogle would keep his tongue in his cheek about a matter which during all the time Miss Braine was at Tichborne was the most curious incident that had occurred. The defendant in that way may have got to know about the blowing out of the candle.

Then Miss Braine speaks of Roger's personal peculiarities. We know what other witnesses for the defence have said about his hands. She is asked whether they were not bony. She replies, 'I never investigated the bones. I conclude there were bones in them.' Rather a flippant answer. Then Mr. Hawkins says, 'You know what I mean.' And here again we have an equally flippant answer, 'And you know what I mean. They were not bony. The knuckles appeared to me to be dimpled. The knuckles of one hand. I believe the knuckles of both were; but I only noticed one—the right hand.' The members of the family speak of Roger's hands as bony, with prominent knuckles; but this lady says he had dimpled hands. She says she remembered the peculiar expression of Roger's eyes, which she describes as an expression of 'melancholy and surprise.' At one moment, she said, he would look very melancholy, and then he would look surprised when there was nothing to be surprised at. As to the habit of raising the eyebrows, she only noticed it occasionally. She did not think it was constant. Her evidence was read, in which she stated it was a constant habit, and she explained that she meant that one would not be with him half-an-hour without observing it. Upon this I asked, 'Is what you now call "occasionally" what you then called "constantly"?' 'Yes, my Lord; that was my first experience as a witness; I am more careful now.'

Asked as to the first visit to the defendant, the witness said that before he spoke she knew him by the eyes and forehead, not as a distinct recognition, but as a recollection which came back to her. She was astonished at his size, and yet there was something of Roger about him. The hair was the same. She missed, indeed, at first the habit of jerking the head back, but she did not look particularly for it. Her examination

was read, in which she said she watched for it and did not see the old jerking habit. Next day she saw it, and said, 'That's what I've been looking for.' But she did not observe the falling look of hair which Roger had, and which he jerked back, until on the second day of her first visit. Then the French pronunciation is brought up again. People who want to say 'mountainous,' say 'mountaynyous,' and that, according to Miss Braine, is a French mode of pronouncing it. I confess it does not appear so to me. Then she is asked whether she can trace back 'worrit' to its French origin. She said she had answered it was purely colonial, she should have said it was purely vulgar. She thinks she can trace a mixture of the French education of Roger where the defendant uses *ie*, the double vowel, where we should use a single vowel, and she says she thinks she could give an example of French translation into English. No doubt Roger Tichborne had plenty of it, but I am not aware that we found any trace of it in the letters of the defendant, and that is one of the differences upon which I will touch by and by. But Miss Braine gives an instance, it is 'I will tell you for why,' which she says is the French *Je vous dirai pour quoi*. 'But,' I said, 'don't you know "for why" is a vulgarism, and that *pour quoi* means "for what," not "for why"?'

Well, gentlemen, I really don't know that on account of the evidence of Miss Braine it was worth while for the prosecution to say anything offensive to her. It comes to very little. She saw Roger on one occasion a few times at Tichborne; she noticed some peculiarities in him, and thought the defendant was Roger. I don't know that her evidence was likely to carry much weight or authority with it. But she has been held up by the learned counsel for the defendant in terms of the highest eulogy and laudation as a perfect paragon of her sex—her virtues everything great and noble. All this is done with the view of making you attach weight to her evidence, which otherwise, perhaps, you would not consider it entitled to. I cannot say, holding the scale evenly between the two parties, that either of them has been right. This is the only instance in this trial in which Mr. Hawkins, whose conduct of the case has been so able, has departed from the strictest possible lines of propriety. I think he did go too far in his attack on Miss Braine. But, on the other hand, nothing could be more inflated or extravagant than the sort of eulogy which the learned counsel for the defendant pronounced upon Miss Braine.

Certainly her conduct is open to remark, because it does appear to exhibit towards the defendant a degree of partisanship and indiscriminate zeal which leads us to think that her statements must be received with some grains of allowance. She was governess of Miss Doughty and professed to have the greatest regard for one who had been her pupil and always treated her with the greatest possible respect. She knew that the defendant was about to open a charge against that pupil affecting her character and honour, that he was prepared to say that while in his uncle's house he had abused that uncle's confidence and seduced his daughter to whom he was ostensibly paying honourable addresses. She knew he was about to proclaim that, and had already communicated it to the persons in his confidence. And, notwithstanding that, she becomes an associate of his, an inmate of his house, and enjoys his hospitality for months. And when she has ceased to be an inmate of his house, when the whole story is out,

and the thing is done, it makes no alteration in her relations with the defendant. She endeavoured to represent when here that she had only become an inmate of his house for the protection of his wife and family, to afford them the advantage of her society while the defendant was absent. I cannot help believing that to be an entire misrepresentation, because in a letter to his mother, in 1868, there is reference to a lady visitor, of whom he, as well as his mother, is most anxious to get rid; but he cannot until he gets her affidavit. If that lady visitor was not Miss Braine, I should like to know who it was. As far as my judgment goes, the reference is to Miss Braine.

But at all events, whether the defendant was absent or not, I cannot see how her conduct in this respect can be said to have been consistent with female delicacy, or the feelings which ought to animate a woman who is told that her pupil has been seduced by the man to whose house she is invited. If she does not believe the statement she must know that he is a vile and abominable slanderer; and if she does believe it she must also believe that he is a man who has been guilty of seduction under the very worst form in which seduction can present itself—a seduction which brings dishonour on his own family, and which could have been consistent only with the grossest abuse of the confidence placed in him. If Miss Braine believed one or other of these two alternatives she ought to have said 'I will no longer consort with that man.' And yet, according to her own account, she used, after the whole story was proclaimed to the world, to go and sit by his bedside while he was ill, and read and write for him. I think after that, looking at all the circumstances, it was hardly consistent with truth or anything like reason for the learned counsel to hold her up as a paragon of her sex, as a ministering angel.

I do not say that these things ought to detract from Miss Braine's evidence. It was a matter of taste, delicacy, and good feeling whether she ought to have gone and associated with the defendant; but it does not affect her credibility to the extent that you won't receive her evidence at all. She seeks to account for her conduct in this way. She says, 'I could not but feel that what he said of my pupil ought to have made me shun the man. I ought not to have gone to his house, still less have sat by his bedside and comforted him; but then he was an oppressed and persecuted man.' I can understand her saying 'It is true the man's conduct may have been abominable, it may have been infamous, but truth and justice are superior to all other considerations. In a court of justice I will speak the truth in order that justice may be accomplished; and though I may abhor the man, his character, and conduct, yet so far as his claim is just, and he asks for no more than the rights to which he is entitled, if my testimony, speaking according to the truth, can avail anything he shall have the benefit of it.' If Miss Braine had said, 'Though he proclaimed he had seduced my pupil, and I shuddered at it, still I was prepared to say what I should have said under other different circumstances, and to go into the witness-box and tell the truth,' I should have appreciated her conduct and applauded it. But when the learned counsel says, after these things were brought to her knowledge, the fact of her still clinging to him is a circumstance that calls for praise from all high-minded and honourable men, I for one protest against it. But will the evidence of Miss Braine must be taken for what it

is worth. She is a person of considerable powers of observation, and did observe Roger Tichborne, and her judgment whether the defendant is the man or not is entitled to some consideration.

Next we have the evidence of Mr. Bulpett which, with respect to this part of the case, as the question of the sealed packet does not enter into it, is not very important, because up to the time that Roger left England he was not brought much into connection with him. He had merely seen him in the hunting field, and, therefore, I don't think it worth while to trouble you with what he said. Then there is the evidence of Lady Burroughs, who once danced with Roger at a ball. Counsel for the defendant used to say, 'I have got no lords or colonels among my company,' and, therefore, I was surprised when he got a lady to come forward with a handle to her name. But a lady who had only danced once with a young officer 20 years ago could be no competent witness in the case. I don't call your attention to the evidence of Lady Katherine Wheble, Lord Howth's daughter, because we have had so many witnesses much better able to speak to the question.

But there is another very important set of witnesses—those from the Carabineer regiment—who were called for the defendant, and first among them is Colonel Norbury. This gentleman receives a letter from the defendant, to which Colonel Norbury replies, saying that he intended to call on him. Then the defendant writes to thank him and say that the Colonel would find him much stouter than he was in the Carabineers. It appears that Holmes thereupon thought it expedient to send for Cairns, the sergeant-major, from Sandhurst, in order that Cairns might have a talk with Colonel Norbury before the latter saw the defendant. Colonel Norbury seems to have made up his mind to test the defendant fairly before he recognised him; and he says he was a long time in the defendant's company before he made up his mind. One thing he recognised him by was his voice; but he could not say whether he recognised him first by his voice or his features. Colonel Norbury said, 'I think the expression I used was "I should not have known you: but come, sit down, and let me ask you some questions."' And accordingly he asked him about the personal appearance of some of the officers—'What sort of a person was so and so; was he tall or short?' His great object, he says, was to put his questions in such a way that the defendant could not get information from him. He could not recollect that the defendant gave any wrong answers. He asked the defendant did he remember where, in Portobello barracks when he joined, the officers' quarters were? And he answered quite right. Then Colonel Norbury asked him about something which he always wore—he might have said day and night. The defendant said, 'O! you mean my sacred heart.' 'That,' said Colonel Norbury, 'was what I was referring to. I have seen it on him when he was nearly undressed. It was something like a locket.'

The witness next asked him about the different quarters of the regiment, and the defendant answered correctly, as he did also in respect to the quarters of the officers. The fact of the defendant saying that a troop was quartered at Clonmel seemed to be of importance to Colonel Norbury, because he had himself forgotten the circumstance; but I imagine he would not have attached so much importance to it if he had known that the defendant had had the statement from the Horse Guards. Then the witness asks him questions which certainly show that the de-

fendant had a good recollection of what occurred in Dublin: 'I asked him what he used to give us at his rooms when he came to Dublin, and he replied after a little thought, "Punch." We used to call it French punch, and I said, "How did you make it?" He described the process correctly. It was very simple. He used to get a bottle of brandy and pour it in a bowl. Then he used to let it burn till a considerable portion of the spirit was consumed, and the remainder was the punch.' This is undoubtedly a striking circumstance, for I do not see how anybody could have been likely to put it into the defendant's head. 'In the course of the conversation,' says Colonel Norbury, 'I asked him to come over to my house the next day. I said to him, "You remember my wife in Dublin?" and he said, "No I don't; you were not married in Dublin." I said, "No, I was not married at Dublin, but I thought you might have remembered the lady I did marry."'

The witness went on: 'He told me a great number of things himself without being questioned, but they did not make much impression upon me. The impression he made upon my mind was in consequence of the answers to the questions which I put to him. He charged me with being one of the persons who put the donkey into his bed, but I have no recollection on that subject.' Then he is asked, 'What was the impression in your mind as to who he was?' 'I had no doubt in my own mind that he was Roger Charles Tichborne.' 'In what way did he bring back to your recollection Roger Charles Tichborne—in his person or appearance?' The witness replied, 'I looked at him for a long time, and found there was a great similarity in his features and the expression of his countenance, though there was a great difference in his figure and his bulk. There was a peculiarity about the brow of Roger Tichborne. What it was I do not exactly remember, but I know there was a peculiarity. I can remember it now, because it has been brought to my recollection by hearing other people talk about it.' Then the witness says he is colour blind, and consequently cannot speak to the colour of the hair. After he had recognised the defendant as the right man he conversed with him familiarly, and he says, 'His manner reminded me strongly of Roger Tichborne then, and I considered his voice was like Roger Tichborne's.'

In reply to Mr. Kenely, the witness said Roger spoke with a strong French accent. The witness fancied he noticed in the defendant's speech a trace, but hardly a trace, of the foreign accent—'There was the slightest possible trace,' he says. He is asked, 'However slight, it was there, you think?' and he answered, 'Yes, certainly, though not in more than two or three words.' The defendant told the witness he had forgotten French, or so much of it that he spoke it badly, and was advised, on that account, not to speak in French at all. The defendant's memory was tested on several points. One was about the trick which the witness knew Roger Tichborne had of sticking pins in the calf of the leg. The witness referred to the trick, but without mentioning the word pin. The defendant did not recollect the incident, neither he nor the witness mentioning the word 'pin.' He was next asked about a trick they used to play on Roger Tichborne when they were going into the country in marching order. The answer of the defendant was that they used to make his horse jump and fidget about. What the witness alluded to was a trick played upon Roger Tichborne in this way: One man got on

one side and took away the crupper, while another, on the opposite side, lifted off his valise, and Roger reached the barracks minus crupper and valise. 'The defendant,' said the witness, 'did not mention that, and I did not mention it either.'

There can be no doubt that Colonel Norbury has given us a perfectly truthful account of what passed, and that his belief in the identity as resulting from that interview is perfectly honest and genuine; but that an attempt had been made to lead him to take a favourable view of the defendant before he saw him cannot, I think, be doubted, from the fact that Mr. Holmes sent Cairns so to arrange matters that Cairns might have a conversation with the colonel before he saw the defendant. Cairns, in his cross-examination, admits that he went to Malvern with the defendant. Carter was there also. Cairns writes to Mr. Rous from Malvern, stating that he had brought Major Norbury back to have an interview with Roger, and that the interview was still going on while he wrote this letter. In another letter he says he is proud to say that the interview had been highly satisfactory, and adds that Mr. Holmes's chief clerk had been at Malvern the previous evening to take Major Norbury's servant's affidavit, which was first-class. No doubt Colonel Norbury and Steptoe, who was an old friend of Cairns, had had conversations with the latter, and were well plied with affidavits before they saw the defendant; at the same time Colonel Norbury was a very competent witness, and showed great prudence in the questions he put and the way in which he put them. The answers given by the defendant exhibited knowledge which the real Roger Tichborne would have possessed. Whether this was a genuine result of the defendant's memory without extraneous information will be an important matter for you to consider.

The next witness is Captain Cunliffe; he joined the Carabineers in 1850 at Cahir after Roger Tichborne had become a lieutenant, that is to say, after the 22d of November. He became very intimate with Roger Tichborne, of whom he gives a description. He says Roger had a thorough knowledge of the French language, but admitted there was no trace of the French accent in the defendant. He says he recognised the defendant when he saw him, but it turns out he did not see him until the adjournment of the Court on the very day the witness was examined. This gentleman is the only one of Roger Tichborne's brother officers who says that he indulged in wine or stimulants to such an extent as to show it. The others all say that they never saw him drunk. This witness says he was in the habit of taking so much wine at dinner that he got into a 'soaked' state, though he never saw the least trace of it the next day. Captain Cunliffe is, however, a very competent witness, having been intimate with Roger Tichborne, reading the same books, and knowing him well, although it does not appear that he had any conversation with the defendant or saw him before the day he was examined, and in that respect his evidence cannot have the same weight as that of Colonel Norbury.

Now I come to the rank and file; the non-commissioned officers and privates of the Carabineers. I am bound to say, however, that I miss the names of persons to which the defendant refers in his correspondence as having made affidavits on his behalf before the former trial. I must say that, because it was asserted by the learned coun-

sel for the defendant that no one had fallen off from him with the single exception of Colonel Custance. But besides Colonel Custance, Captain Shurston is not here, Colonel Sawyer is not here; and they all made affidavits in favour of the defendant, and some were examined on the former occasion. They, of course, heard or read the examination and cross-examination of the defendant at the former trial, and they are not here now.

The Foreman.—Is Major Heywood alive, my lord?

The LORD CHIEF JUSTICE.—I believe so. At all events I have not heard that he is dead. There are two or three other gentlemen who were before in favour of the defendant, but whom we have not seen. There is Sir Talbot Constable. What is the explanation of his absence? The learned counsel for the defendant says the prosecution would have insulted him in some way, but Mr. Hawkins repudiated that in the strongest manner, and I believe in the perfect sincerity of that repudiation. Then there is Mr. and Mrs. Marx. It does not necessarily follow that their absence should tell strongly against the defendant, but the learned counsel had no right to say that no one had fallen off from him.

However, there was a strong body of evidence from the non-commissioned officers and privates of the Carabineers. I think there were altogether fifty-eight in number. They all agree in certain main things, and I should be abusing your patience and wasting your time if I went *seriatim*, one by one, into the evidence of all these witnesses upon the points on which they are all agreed. Therefore I shall take them *en masse* as regards those general points, and only call attention especially to those witnesses who speak to facts and conversations by which the knowledge or ignorance of the defendant may be tested. They are all agreed that he was a slim, slight man; that he was about 5ft. 8in. or 5ft. 9in. in height; they are all agreed as to the colour of his hair, and they are also all agreed—with certain differences of expression—as to the twitch about his brows. Then they are all agreed that he had a sallow complexion and brown hair, and the preponderance of their testimony is in favour of dark brown hair. They are agreed also that it was not curly, but lank and straight; and they are pretty well agreed as to his voice. It was a soft, mild voice. One says it was 'more like a lady's than a man's;' another that it was a 'mild, clear voice, and weak;' and a third that it was 'neither coarse nor soft.' But one man said it was coarse, and made the inconsistent observation that it was 'coarse, like a woman's.' That was the first time I ever heard the expression. Then with regard to his hands and feet, they are agreed that they were small; two say 'very small.' As to his hair, one man named Ratcliff says it was lighter than it is now; but they all agree that it was brown and much like the defendant's. With respect to the twitching, one witness says it was in the eyebrows and was noticeable in talking; another that it was when he was excited, another in speaking, another says it was in the right eye, another in the forehead, and one witness never saw it at all. All of them agree that the eyebrows were large. With respect to the accent, they all agree that he had a French accent and spoke English imperfectly, though one witness says he improved before he left. Then, whereas we have been told by the witnesses for the prosecution, that Roger had sloping shoulders and a narrow chest, we have a large divergence in the witnesses on the other side, who

say that Roger Tichborne had broad shoulders, or square shoulders, or wide shoulders. The same witnesses speak of his having a fair manly chest, in contradistinction to the allegation on the other side that it was narrow. These witnesses make Roger Tichborne a much larger man than do the witnesses for the prosecution. All these fifty-eight witnesses agree in their conviction that the defendant is Roger Tichborne.

The first of these witnesses, to whose evidence I shall call your attention, is a man of the name of Patrick Parry, who was formerly servant to Major Hay, of the Carabineers. He was in the habit of occasionally attending as mess waiter, so that he had full opportunity of seeing Roger Tichborne when he was dining at the mess. He saw the defendant at the Queen's Hotel, at Leeds, in 1868, and recognised the voice and the twitching. They got into conversation when the witness asked the defendant, 'Who commanded the regiment when Roger Tichborne was in it?' He answered, 'Colonel Jackson,' and he spoke also of Major Hay and Sergeant-Major Dickinson. He was asked the names of the adjutant, the paymaster, the riding-master, and the superintendent of the riding-school, and he answered correctly: but those were all facts he had obtained at the Horse Guards. He was asked who were Roger Tichborne's servants, and he said M. Cann and Clarke, and that the latter was killed by being thrown from one of his horses. We have had it admitted that all the regiment knew of the accident to Clarke, but the witness says he did not recognise the defendant so much from what he knew as from his features and voice.

Sergeant-Major Hamilton gave some evidence of importance, but began by a mistake. He said that Roger Tichborne first joined Captain Morton's B troop at Portobello in 1849; but we knew that he joined the F troop, under Captain Joelyn, and did not join Captain Morton's troop till he had his lieutenancy. This witness saw the defendant at Liverpool in 1868, after having received two letters from Baigent. He was shown into a room and found there John Lessware and his wife and the defendant. He did not recognise him at first, because he was so stout, but the voice brought Roger back to his recollection, though stronger than it was before he left England. He asked the defendant whether he remembered anything happening when he returned from chapel, and he said that he did—that he had fined a man for being drunk. In cross-examination, he said he recognised the defendant's voice, and was more impressed by it than by what the defendant told him.

Frederick Mather, the interpreter at the London, Chatham, and Dover Railway Company's Station at Dover, said he was born in France and knew Roger Tichborne very well while in the Carabineers. He saw the defendant at Leeds, in February 1868, and says: 'A gentleman came to me and asked me whether I had been in the Carabineers. I said I had, and he asked me to name the officers. I did so, mentioning the name of Roger Tichborne. He asked me whether I could identify Roger Tichborne, and I said I thought I could. I went to a room where three gentlemen were, and at first I could not identify him, he had grown so stout. I spoke to him in French, but he said, "Speak in English, so that these gentlemen can understand what you say," and then he said, "I have nearly forgotten French." I asked him whether he could remember any circumstance occurring while I

was in the regiment, and then he brought to my mind a circumstance which did occur, but which I had entirely forgotten. He said I had been reported for having a dirty sword. After five minutes' conversation with the defendant I recognised him by the eyes and the upper part of his face. He spoke better English than he used to do, and had altered a good deal. I asked the defendant to read in order that I might ascertain whether I could identify the voice and tone. I did identify his voice with a slight difference.' In cross-examination, he says: 'When I went to see the defendant, I went into the wrong room, and then into the right one, where there were two or three persons besides the defendant. I said I had come to identify Roger Tichborne, or something to that effect. The defendant rose, and I addressed him in French, and he answered in English. Our conversation was in French in former times.' This witness not only speaks to the defendant about things that had happened to Roger Tichborne, but he says that the defendant recollected about his being in trouble on account of his having a dirty sword. Another point is that the French accent was observable in the defendant's speech and in certain parts of his composition? Was that genuine? Did he assume an accent that did not belong to him for the purpose of inducing these men to believe in him? You must judge for yourselves, gentlemen, whether you think it was put on, or whether it was the true intonation of the man's voice.

Another witness was Mr. M'Eleneay, son of the trumpet-major of the regiment when Roger Tichborne was in it. He says the defendant answered his questions correctly as to his having been taught the French horn by the witness's father, and other matters which, with a personal likeness that he traced, satisfied him that he was the true man.

Then there was Carrol, who knew Roger in the regiment, and was in the same troop, and the defendant stated correctly the position of the various quarters of the men in Cahir barracks; and what struck him most was, that he said that there was a white horse in a particular stable—the only white horse in the regiment. The witness explains that there was a gray horse belonging to the trumpeter. This is evidence of very good memory, but one would expect that an equal amount of memory would be shown by the defendant as to other matters.

Martin Burke, who was in the same troop as Roger Tichborne in 1851, recognises the defendant by his gait, the twitching of his eyebrows, and his answers to questions. He saw the defendant in 1868, and asked him about an occurrence when he was marching with the men to church at Cahir, and defendant said he remembered that two men got drunk, and one, Larking, had seven days. He described the horse he rode at the riding school, and told the witness that the riding masters cracked many a bottle at his expense. The witness did not recognise the defendant until he began to speak about these incidents, and did not believe him to be the man until he put these questions, and he went more by the answers than anything else. He states that every man in the regiment knew about the two men getting drunk at Cahir and being punished. Then he gets into a difficulty because the defendant spoke of finding a man named Robinson asleep at his post. It appears that Robinson was found asleep at his post at Norwich, where Roger Tichborne's regiment never was; and the witness says he thinks Robin-

son was found asleep twice; but we have no other proof on that point.

Now I come to Walter Moody, who was stationed at Colchester when the defendant went there. He was one of four who were requested to go up and see the defendant. He says he was shown into a room, when a gentleman came in and said he knew him, and in a few minutes he replied that the gentleman's name must be Tichborne. Moody asked the defendant whether he remembered anything which occurred at Cahir barracks on Christmas-day. The defendant considered for nearly ten minutes, and then he said that two men got drunk, and he had to march them off. He mentioned the name of one, but the other he could not remember for half an hour. The names were Larking and Fenton. The witness went on to say: 'I asked him the number of my own horse, and, after a little hesitation, he replied, "G 23." It is certainly a most remarkable circumstance if the defendant remembered that from 1852 to 1868. I should think very few officers in her Majesty's service have so retentive a memory. 'I found,' says the witness, 'that the number was correct.' The defendant also said that the horse was a bay horse; and he was correct also in that particular. He mentioned another horse, a black mare, which he said belonged to Hind, and though he gave two or three numbers for it, he got the right one at last. It seems marvellous that he should have remembered so much. This witness said he was more astonished by the defendant knowing the number of his horse than about the black mare. No doubt while an officer is in the regiment it would be his duty to know the number of each soldier in his troop; but it is certainly curious that he should remember the number after so many years.

Another man, named William Robinson, went to see the defendant at the Three Cups, Colchester, in 1868. As soon as he went into the room, the defendant spoke to him by name, saying, 'You are William Robinson,' and told him that he had to take care of a sick horse in the regiment. He asked where it was put, and the defendant replied, 'In the gun-shed,' adding that it was a chestnut 17½ hands high. The witness continued, 'I recognised him as Roger Tichborne, but it was half-an-hour before I did so, because he had grown so stout.' He adds that the defendant talked like a Frenchman, but not so much as when he was in the regiment.

Then there is Lessware, the old trumpet-major, who says he saw the defendant at the Victoria-hall, Liverpool, in 1868. He did not recognise the defendant at first, but identified him after ten minutes' conversation by his forehead, mouth, nose, and peculiar twitching of the right eye. Witness asked the defendant, 'Do you remember the dress I used to wear?' and the answer was, 'Yes; white facings, scarlet jacket, and gold lace.' The witness next asked him whether he recollected what happened to the barrack-master at Clonmel. He replied, 'Yes; his hat and wig blew off, and a young girl ran out and picked them up and put them on his head again. The barrack-master was so pleased that he married the girl. On their coming home from the wedding the men turned out, and taking the horses from the carriage drew it in with ropes.' The witness then asks him what were the pamphlets that had postages to pay on them. The defendant replies that they were French pamphlets sent to him by his mother. The witness next asked if he recollected where his letters were sent when he was absent

from Cahir. 'The answer,' says the witness, 'was correct, though I forget now what it was.' The old man was postman to the regiment, and distributed the letters to the different officers. He found no trace of a foreign accent. He says that when he went into the room the defendant was alone and at once recognised him, saying, 'You are Trumpet-major Lessware,' and when his wife came the defendant also recognised her in like manner.

Another man named Roine speaks of an incident on board the steamer coming from Dublin to Herne Bay. Some of the baggage took fire, and when he told Roger Tichborne that it was close to the ammunition, he exclaimed, 'O, mein Gott, we will be blown up! but that was not the exclamation of a Frenchman. The defendant, on hearing his name, said, 'I remember you had another name; were you not nicknamed "Alonso the Brave?"' The defendant was going somewhere, and the interview was cut short; but another was agreed upon, and the witness went the next day to Harley-lodge. He says he recognised the defendant's voice, which had got a little stronger, and he had lost the foreign accent, with the exception of a little twang. The witness says he saw Mr. Holmes, and stated several transactions he had with him in his 'capers through life.' By that he explains he meant the defendant coming to the stables and saying the saddles were dirty, when he did not know a dirty one from a clean one. Certainly, if the defendant had not seen him before, and when witness saluted him and suddenly pulled him up he recollected the nickname by which he passed in the regiment, it is a very striking fact.

William Davis, who was in the Carabiniers in 1849, and was drilled with Roger Tichborne, saw the defendant at the Waterloo Hotel in November 1871. He did not recognise the defendant at first, and said he was not Roger Tichborne; but subsequently he recognised the twinkle of the eye and the voice, although it was 'stronger and huskier.' He says: 'I asked him, "Who pulled the donkey out of your bed?" and he said, "William Davis." I said, "You are either Roger Tichborne or the Devil." The defendant, he says, recollected the witness having two or three days' extra drill for rubbing his horse's legs down with an oil rag in order to make them shine. Think what an effort of memory this was after twenty years. He also remembered about the sale of a fighting-cock.

Sergeant Brittlebank saw the defendant in 1872, and feels convinced that the defendant was Roger Tichborne, though there was a great change, alluding to the unusual stoutness. Then the witness asked him if he knew Lyons in the regiment, and he replied, 'Yes; Sergeant-Major Lyons.' Then the defendant asked the witness whether he remembered a stable taking fire at Fermoy, and some of the horses being burnt. That he could not have known personally, as Roger Tichborne never was at Fermoy; but of course it would be the same thing if he exhibited a knowledge of matters which occurred in the regiment a long time ago. It appears, however, that Carter had called on the witness to make inquiries before he saw the defendant, and it is possible that Carter may have obtained something from the witness which he mentioned to the defendant before the witness saw him. This is only a matter of inference, but there stands the fact that the defendant had that conversation with the witness and exhibited a remarkable knowledge of what happened in the regiment a long time before.

FIFTEENTH DAY, Friday, February 20, 1874.

Gentlemen,—Before I proceed with the summing up of the evidence I think it right to say that I have received a letter from Mr. Guildford Onslow, in which he asks me in justice to him to correct a statement which I am reported to have made—namely, that Mr. Guildford Onslow advanced the sum of 3000*l.* to the Claimant, in consideration of a sum of 6000*l.* to be paid when he came to his estates. He says that is not the case; that the real fact is that another person advanced this sum on his own conditions to the Claimant to meet the expenses of the Commissions to Chili and Australia, he being security for the sum of 1000*l.* only. Now, if I have been reported to have said that Mr. Guildford Onslow advanced the sum of 3000*l.* it has been a mistake. I never said so. It was his steward who advanced the money, as appears by the defendant's schedule. I never said he advanced 3000*l.* I certainly did suppose Mr. Guildford Onslow had security for the money he advanced, and it appears that the security only amounts to 1000*l.* Then he says, 'The sole and only reason that induced me to attend meetings was in consequence of the late Government refusing to answer questions which I put in the House of Commons. The only alternative was the public platform to enable me to fulfil my promise to the Dowager Lady Tichborne not to abandon the cause of her son.' That may be so. I do not at all doubt Mr. Guildford Onslow's statement, but it does not make the slightest difference in my opinion as to the propriety of creating a storm of popular prejudice with respect to a case which was pending in a court of justice. Then Mr. Guildford Onslow goes on to make some observations in reference to the photographs of the grotto, but with that I will deal when I come to the question of the relations which subsisted between Roger Tichborne and Miss Doughty. It would be premature to do so now. I think it right to say so much, as I should be sorry that any observation I was supposed to have made should be thought by Mr. Guildford Onslow to do him injustice. My brother Lush points out to me the evidence of the defendant in reference to the advance made by Mr. Guildford Onslow. It is as follows:

"Guildford Onslow, Esq., M.P., Ropley, Hants, 3200*l.*" What does that represent?—That represents 1000*l.* of 5000*l.* "3200*l.*" You got 1000*l.* for that, do you mean?—I gave him a bill of 3000*l.* for the 1000*l.* The Lord Chief Justice.—He gave you, or you gave him?—I gave him. The Attorney-General.—You gave him a bill for 3200*l.* for the 1000*l.* If I recollect this right, Mr. Guildford Onslow and Mr. Guildford Onslow's steward, Mr. Harwood, have between them got bills for 6200*l.*?—I do not think Mr. Guildford Onslow has got anything to do with it. I think it is all for his agent. All for his agent?—Yes. His agent has gone in for 6200*l.*?—Yes. Mr. Guildford Onslow's agent?—One of the bills is in Mr. Onslow's name, because Mr. Harwood did not wish to take the whole on himself. So Mr. Guildford Onslow took it?—There is some arrangement. I am quite certain Mr. Onslow has no interest in it. Mr. Onslow has no interest in it?—Except 200*l.* That is for horses I bought of him. He sold you some horses for 200*l.*?—He sold me a horse for 200*l.* 200*l.*?—Or 100*l.* and something

else. I do not know what the other 100*l.* was, I am sure. There is an arrangement, as you understand, between Mr. Guildford Onslow and his agent?—I think so. As I understand, Mr. Guildford Onslow took it in his own name for 3200*l.*?—Yes.

It was upon that evidence that I based my observations.

And now, gentlemen, I come to the remaining Carabineers who gave evidence in favour of the defendant. The witness Cheetham said he identified him by his appearance and his walk, and by the answers to the questions put to him. Broadhurst and Fox gave similar testimony. William Burrows only saw the defendant a day or two before he was examined, and says he last saw Roger Tichborne in 1852. He knew the defendant to be Roger by his walk directly. He saw him at Poet's Corner, and said he would put to him a question which nobody could know anything about but himself and Sir Roger. It was—'Do you recollect promising to give me a sovereign?' He replied, 'I recollect giving you one;' to which the witness responded, 'You never did;' and you acted in a very ungentlemanly manner about it.' The incident to which the witness referred was somewhat remarkable, and his evidence is most materially shaken by the pertinacious manner in which he adhered to statements he makes with reference to Sir James Tichborne, who, he says, told him to go to his son and ask him for a sovereign. This, he says, occurred at the railway station at Cahir, to which he had accompanied Sir James. He positively asserts that Sir James went away by himself, and that his son did not go with him. We know by the letters of Sir James and of Roger that they went to Dublin together. This, therefore, must be looked upon as a very doubtful witness. He is the last of the military witnesses who spoke of conversations and reminiscences of Roger Tichborne.

Then we have the evidence of David Martin, a professional pedestrian. He says he knew Roger Tichborne at Canterbury, and saw the defendant at the Waterloo Hotel. He states that Roger Tichborne was in a match run by him; that he took a fancy to his racing shoes, for which he gave him half-a-sovereign. He identifies the defendant as Roger Tichborne. He also tells a story about Roger being at the Fleur-de-Lis Tavern, and two ladies coming in, and that Roger was twitching, and they were offended, thinking he was winking at them, until the witness interposed and explained.

Then we come to Henry Godsmark, who first saw the defendant in this court on the 6th of June 1873, and who, with a view to test his recollection, had brought with him a photograph of his uncle, who was a horsedealer, and who bought horses for the 6th Dragoon Guards in 1852. Four photographs were placed before the defendant, who passed the first three, and then, taking up the fourth, said, 'This is Godsmark.' The witness asked the defendant if he knew him, and he answered, 'Yes, he supplied us with horses.' Now this man died in 1865, and therefore the defendant could not have seen the particular individual. But it is quite possible that he may have heard that Godsmark bought horses for the Carabineers on their being remounted

when the order for India was countermanded, and, as you will see by the photograph, Godsmark has a particular appearance—he had an affection of the eye, which gave him the appearance of being a one-eyed man; in addition to which he was dressed in the style which it was probable would be adopted by a horse-dealer, so that if the defendant had heard that Godsmark was a one-eyed man and a horse-dealer, there could not be any mistake about which of the photographs was his.

William Wilby recollects Roger Tichborne at Canterbury, and says of his walk, 'It was one leg over the other more than anything. There was a peculiar weakness of the knee-caps; the legs seemed as if not strong enough to carry his body.' That, I observe, is a description of very much the same kind of weakness as many of the witnesses called for the defence from Wapping gave of Arthur Orton's peculiar walk. The witness went on to say that on one occasion, during the summer of 1850, he was at a place about eight miles from Canterbury, and went into an inn, when Roger Tichborne, with Dr. Adams and Dr. Moore, of the Carabineers, came in and drank his (witness's) brandy and water. He said they must replace it and they did. Afterwards he saw them in a dog-cart driving tandem, and they asked him to help them as they were up to a little game. They tied a rope to a gipsy's stall and drove on, dragging over the stall into the grass, and breaking all the man's goods. The witness asked the defendant about this, and he said he remembered about throwing over a stall, adding that he was asked so many questions that it was impossible for him to recollect everything. That is a striking circumstance for your consideration.

We now come to another witness, George Greenwood, the regimental tailor of the Carabineers, of whose evidence so much has been made. He says that he knew Tichborne when he was in the regiment, and was in the habit of supplying him with clothes. He says:

'I measured him first when he joined, when he measured 36½ inches across the chest, and when I measured him again he was 37 inches across the chest and 29 inches round the waist. We always find that the waist of a soldier decreases while the chest increases. I have talked to him occasionally and have a recollection of him. His hair was dark, and I cannot see any difference between the hair now and what it was then. I particularly remember his eyebrows, because the French messman had the same. He used to have a little raising of the eyebrows when he spoke. His legs would appear as if they were disproportionate to the other parts of his body, and both hips and legs were small. I could not say which leg it was, but one had an inclination to bend in. His voice was rather mild and he had a French accent rather strong when he joined, but less to a great extent when he left.'

That is a point on which there is great discrepancy between the witnesses. He goes on to say:

'I received a letter from Mr. Holmes, through my son, asking me if I measured Roger. In consequence of that I saw the defendant, but did not recognise him the moment I saw him. He asked me to take a chair and sit down. I spoke to him about the difference in his nose, and he explained that it was the result of an accident. I saw the same expression in the defendant's face which I had observed in Roger Tichborne, and I noticed the peculiarity in his walk. I thought the voice appeared to be about the same. I did not find any trace of foreign accent. I said I had brought

my ledger with me to see if he recollected what articles of clothing I had made for him. He thought that was a severe test, after so many years had passed, and he asked what kind of garments I was going to ask him about. I replied that I should exclude regimentals. In answer to a question I put, the defendant said I had made a monkey-jacket for him, and which he had for many years. I think he said it was a blue monkey-jacket. I said I was not aware I had made it. He then added that I had made for him a scarlet hunting coat, with "H.H." buttons. I then referred to my ledger, where I found the entry "Furnishing a scarlet hunting coat, Sept. 13, 1852; 18 buttons, ditto." I also found the entry, "Furnishing blue pilot coat, lined with flannel, stitched at the side, Oct. 1852." The defendant could not see what was in the ledger. I said I had made another coat of a peculiar type. It was some few moments before he gave me an answer. He then said, "You made me that light drab driving coat, the same as you made for Captain Hayward." I am under the impression he described something about the stitching; and I said that was correct.

Referring to Roger, the witness says he had the habit of raising his eyebrows when he was in the act of speaking, as if he had not confidence to look at you. Both legs, he added, were inclined to be weak, and he was in-kneed a little. Then questions are put in cross-examination respecting the correspondence with Mr. Holmes, but I do not think it shows anything more than the kind of communication which would pass between a professional man who requires certain information and the person who can give it. Mr. Holmes did tell him that he was not to be surprised to find the defendant very stout, and when witness saw him he was not prepared to see him so stout. Now, the evidence as to the coats is striking, but there is one fact which may throw a good deal of light upon it. 'Six months before the last trial,' says the witness, 'I saw the defendant, and he showed me a pair of regimental trousers and an old jacket. I do not recollect whether he told me they had been taken care of while he had been away, and given to him when he came back.' We have this fact—that Mr. Greenwood wanted to measure the length of the regimental trousers, in order to ascertain whether they agreed with the size of the defendant—the length of his leg—and we have been told the trousers were used for that purpose. Now, where did the trousers and regimental jacket come from? If the defendant produced these articles, Roger Tichborne must have left them behind him somewhere. We know from a letter he wrote to Mr. Gosford that he desired his things to be sent to Upton, in order that he should have them on his return from the farewell visit to Paris. Now, one of the coats was made in the latter part of 1852; and, therefore, it would have been worn very little; and if the old jacket and trousers were kept it seems to stand to reason that the other articles of dress, the 'H.H.' hunting coat and driving coat, if they were among the things Roger did not wish to take to South America, would be left behind, either in the care of Lady Tichborne or in that of some other person, who would probably give them up to her when it was found that Roger Tichborne was no more. Then the same things might be handed over to the defendant by Lady Tichborne; or, if she did not do that, he would have no difficulty in finding them, supposing they were left behind. In that way he may have possessed himself of the means of answering the ques-

tions put to him by the witness. Again, the bills and receipts, which a prudent man of business like Roger Tichborne would preserve, may have fallen into the hands of the defendant, and these would furnish him with some of the information he required. He would naturally look at them to see, knowing that Greenwood was coming, what articles he had made for him. I do not, therefore, think there is the same in this evidence as to the coats that there is in some of the other matters I have brought under your notice. But there is no doubt one circumstance that is striking—I do not think he could have learned it from the possession of the articles of dress in question, or from any bill or receipt—and that is the mention of a similar sort of coat having been made for Captain Hayward. That certainly would appear to be genuine recollection, if the account sent in did not mention 'similar to that made for Captain Hayward,' of which we have no knowledge, or if a servant who knew the fact did not inform him of it. Of that, however, we have no evidence, and it is certainly thus far a striking fact in his favour.

Then we have Captain Sankey, who did not belong to the Carabineers. He was uncle of Captain Morton, and knew Roger Tichborne very well. In the year 1870 he was in London, and hearing that the defendant was at the Waterloo Hotel, he went to see him there. On seeing him he says it struck him at once that he was Tichborne. The defendant said when he entered, 'You are Captain Kellett,' to which the reply was 'I am not.' 'Then,' said the Claimant, 'you are Captain Sankey.' Now he had been expecting both of them, and as we know that there could be no mistaking the part of her Majesty's dominions Captain Sankey came from, it was easy to guess that if he was not Captain Kellett he was Captain Sankey. They had a conversation, in the course of which Captain Sankey asked him if he remembered the horse Captain Morton had, and he replied 'O yes—a devil to ride—a hollow-backed, roach-backed horse'—using both words, Captain Sankey says, and describing its colour accurately. Now, it could not be hollow-backed and roach-backed, for one is exactly the opposite of the other. In the Court of Common Pleas the defendant said it was a roach-backed horse. When the witness was leaving the room, the defendant said, 'By-the-by, Captain Sankey, are your sisters married?' That astonished the witness, because after so many years he did not expect he would remember his sisters at all. He then mentioned a number of families who lived in the neighbourhood of Cahir, whose names were known to the witness. This knowledge, confirmed by his personal recollection, led, he says, to his recognition unhesitatingly of the defendant. Roger had a melancholy face, and it struck him that the defendant had the same. His walk was the walk of Roger, but the voice was gruffer a good deal.

There are two or three things in this which are striking. First, there is the knowledge of that particular horse, but are we quite sure that they are speaking of the same horse? A hollow-backed horse is one thing, and a roach-backed horse is just the reverse; and we find that the defendant, in his cross-examination, states that it was a roach-backed horse, which belonged to Captain Morton; but Captain Sankey could never have seen it, for the horses were sold in Ireland when the Carabineers were dismounted, and when the orders for India were recalled, they had to purchase others, and the roach-backed horse was bought at York in 1852, and never was in Ireland

at all. As regards the defendant's recollection of people resident at and in the neighbourhood of Cahir there is this observation to be made. This conversation was held after there had been a great deal of intercourse between the defendant and a gentleman named Cook, whose relations lived in the neighbourhood of Clonmel, and we find from a letter written by the defendant that that gentleman was staying with him at Croydon for some weeks before and after his visit to Ireland. Nothing could be more natural than that he should talk of the people he had seen, and the families in that neighbourhood. That might revive the recollection of Roger, or, on the other hand, it would give valuable information to the defendant if he were not Roger.

There remains a witness, whose evidence I should have read before but that I had not the note of it before me, and which I will refer to now, as it ought not to be passed over. I refer to Mr. Store Smith, who was connected by marriage with Captain Manders of the Carabineers. He visited his relative at Cahir, and was introduced to Roger Tichborne on account of his smoking habits. Captain Manders objected to Mr. Smith smoking in his rooms, but said, 'I will introduce you to a gentleman who will let you smoke to any extent.' He was introduced to Roger, and a very strong intimacy appears to have sprung up between the two young men. Mr. Store Smith says that he went in and out of Tichborne's rooms whenever he pleased, and generally sat with him about four hours a day. He tells us of his having taught him (Mr. Smith) some French songs which Roger used to sing, and of a singular habit he had of catching flies and putting them in a comatose condition. He wrote to the defendant after he had made his claims, offering to see him, but obtained a reply that the evidence was so overwhelmingly complete that no more was required. In the year 1870 he saw a letter in *The Times* as to some part of the proceedings signed 'Baxter, Rose, and Norton,' and not knowing that Mr. Holmes had ceased to be the attorney of the Claimant, he took them to be the attorneys of the other side, and communicated to them the fact by letter that he had known Roger Tichborne well. He received a letter from Mr. Spofforth in reply, informing him that they were engaged for the Claimant, and requesting that he would meet the defendant at their office on a particular day. He went, and saw Mr. Spofforth and Mr. Baigent. Mr. Spofforth asked him a number of questions as to his knowledge of Roger Tichborne, and his ways and habits, and some of the questions he declined to answer. He waited for two hours, but the defendant did not come, and Mr. Spofforth told him he had just learnt that Sir Roger had had another engagement, but would see Mr. Store Smith at 3 o'clock at the Waterloo Hotel. I shall read to you the evidence of what took place at that interview:

'Will you tell me now what occurred when you got to the Waterloo Hotel?—I was shown into a drawing-room on the ground floor to the right of the entrance-passage; there I remained 20 minutes, without anybody coming to me. Then Mr. Spofforth came into the room very profuse of apologies, and said that the reason of the delay had been that he had been unable to find his four or five men over 20 stone. They were all, unfortunately, engaged, or hands could not be laid on them, but he had succeeded in finding one very big man, and he would now take me into the room where I should find two very big men. I

was to look at them, and say which was my old friend. Upon that he led me across the lobby past the entrance-hall to a room that corresponds to the one I had been in on the left of the entrance-passage of the Waterloo Hotel. There I saw the person who had been in the office in the morning, who I have since found out was Mr. Baigent. Sitting in a chair was a tall man six feet high, very thin, with black hair slightly grizzled, and with whiskers, about some 55 years of age; opposite was the Claimant, whose back was turned to me, who was smoking a big cigar. Mr. Spofforth said, "Now, sir." I said "That is not him." He said, "Why not?" I said, "Because the thing is ridiculous; he is several inches taller, and old enough to be his father. That is not him at all." The tall gentleman rose up and walked straight out of the room. Mr. Spofforth then pointed to the gentleman who had his side turned to me, smoking a cigar. He said, "What do you say to this?"—I said, "Well, I will not say Roger Tichborne might not have become this person," laying very great stress on that. Mr. Spofforth said, "May I trouble you to retire into the room that I took you from?" and I retired into the room from which I had been led.

"In a few minutes, Mr. Spofforth rejoined me, and he came in and said, "You do not recognise your old friend?" I said, "Not in the least." He said, "Is there nothing that struck you?" I said, "Nothing; I never saw anybody who is so dissimilar in my life." Mr. Spofforth said, "That is very odd; he does not recognise you." I said, "Well, Mr. Spofforth, it is odd, because I have altered less than anybody could alter in the same number of years." "He does not know you," he said. He said, "Are you sure there is nothing that reminds you of him?" I said, "Nothing; but, as I told you this morning, that would not make me recognise him, if I had the opportunity of hearing his voice and talking to him." He said he would go back and see him, and see if he would see me again. He left me, and came back in two or three minutes, and said, "I am happy to tell you that Sir Roger will see you. Will you come with me?" I then went that way. . . . For about a minute I was silent, and could only see the side of the defendant, and then I said, "So you do not recollect seeing me." He turned round slowly, and said, "No." I then said, "Are you sure you do not?" Then he said, "Where was it that you said you met me?" I said "At Cahir." "When?" he asked. I said, "From the middle of May to about the 15th of June 1850." He said, "Was it not at Clonmel?" I said, "No, it was not at Clonmel." He said, "Were you never at Clonmel?" I said, "Yes, I was, I had a day's trip there." He said, "You did not see me at Clonmel?" I said, "Certainly not, you were never there during the whole month I was with you." Then he got up slowly and threw open a door which led to a bedroom, and closed it behind him, and came out again in two minutes, sat down in his chair, and said, "I see you were right, I was at Cahir at that time." I then asked him if he did not recollect a nephew of Captain Manders coming to stay a month there, and doing his smoking in his room and his teaching him songs and conversing with him from day to day. I may say that throughout the whole of the interview I was much more frequently answered by another question than having an answer to my own.

"I think it was at that point that the Claimant said to me, "If you were in my rooms in the way you say you were, who were my servants?" I said, "I

do not know who they were." "You do not know?" he said. I said, "I remember Manders' servants; I never bothered my head about Roger Tichborne's." "No," he said, "you cannot tell me who my servants were." I said, "No, I cannot." He said, "If you had seen me in my rooms in the way you say, you would have known my servants." I said, "I never bothered my head about that." He said, "No, because you were never in my rooms in your life." I said, "I do not think I was, but I unquestionably was in Roger Tichborne's," to which the Claimant replied, "It is like your impudence to sit there and say that to me" (drawing himself up). I rose to go, and said to Mr. Spofforth, "It appears I am the impostor." Mr. Spofforth said, "Sit down. I did not introduce you two old friends and gentlemen to quarrel. If you will sit down and be cool, and suggest other topics and other things, no doubt a chord will be struck and Sir Roger will revive, and we shall get along very nicely."

"Upon that I endeavoured to strike chords. I mentioned the fly matter. I told the Claimant that if he remembered nothing at all about it I should not be at all surprised. Still, it was one of those tricks and habits that he did scores of times that he might remember. I led up to it. I said he smoked at them—everything but tell him. I said, "Do you recollect anything about it?" After a pause he said he did. He said "Did I used to stick pins in them?" "No," I said, "you did not." . . . I asked him if he remembered the park at Cahir. He said he did not. Then Mr. Spofforth said "You mentioned the park this morning, Mr. Smith." "Yes, I did," I said; "I never dreamed but what he would have remembered the park. I said I should ask him two or three questions. He said, "You mentioned the name; what was it?" I said to Mr. Spofforth, "Sir Roger ought to tell you," but he did not. He said, "You called it Glan something." I held my tongue. He said, "I think you called it Glan-hill." I said, "I did not. As Sir Roger cannot tell you, I will; I called it Glengall." Then the Claimant woke up and said, "O, Glengall-park, the seat of the Earl of Roscommon." I said "The seat of Fiddlesticks." To which he said, "I must have been thinking of something else." I said, "I should think you were."

Ultimately Mr. Smith said to Mr. Spofforth that it was mere waste of time to stay longer—that the man was not his friend Roger Tichborne, and that they had never met before; and so the interview terminated. On the 7th of March 1852, Mr. Spofforth wrote to Mr. Store Smith as follows:

*'6 Victoria-street, Westminster Abbey, S.W.,
March 7, 1872.*

Dear Sir,—The plaintiff stated to me before I left the room after your departure that he supposed you alluded to a habit he used to have of eating flies. I desired afterwards to ask you if this was the true account, and for that purpose spoke to your friend Mr. Fowler, but somehow the communication was never made. I should be glad to receive your account of it.—Yours faithfully,
M. SPOFFORTH.

'I have, of course, ceased to be the plaintiff's legal adviser, I only write to you out of courtesy.
'Mr. J. Store Smith, Shepbridge Ironworks, Chesterfield.'

Mr. Store Smith replied:

'March 9, 1872.

'Dear Sir,—The real Roger, when I used to sit smoking with him, was very fond of catching house-flies in the usual manner, and placing one'

more of them under a tumbler glass, and then, drawing the tumbler to the edge of the table, he went upon his knees and puffed great volumes of smoke into it until it was as opaque almost as if filled with milk, and the fly was rendered insensible. He then tried all manner of experiments; now jerking up the tumbler an inch or so on one side, and at each jerk some of the smoke was expelled, and air took its place. This would be repeated until the atmosphere in the glass was sufficiently diluted to revive the fly, which would commence kicking, and then Roger would either blow more in and stupefy it again or jerk it clear and let the fly go. . . . This was what I alluded to, and you must remember I led up to it very closely. I said, "Roger Tichborne had a habit of catching flies and amusing himself with them. Do you remember anything about this, Mr. Orton?" Castro, after a few moments' pause, replied, "Did I stick pins in 'em?" What he afterwards told you, I shall hear to-morrow.—Yours truly,

'Mr. M. Spofforth. J. STORE SMITH.'

Well, Mr. Store Smith is asked whether Roger had a habit of eating flies, and he said 'No.' That is a singular mistake to have made, and you must judge whether the defendant was wanting in the answers to the various questions which Mr. Store Smith put to him, as to matters which Roger would be reasonably expected to know. Then the Claimant was cross-examined with reference to this interview with Mr. Store Smith, and substantially he denies part of the conversation. He is asked:

'Did you ever know Store Smith?—I met him a few weeks ago. That was the first time I had ever met him to my knowledge. To the best of my belief I did not know him when in England before. I certainly had not known him for years, and well. I think he does not state that himself. He has come to see me since my return, and saw me in the presence of Mr. Spofforth and Mr. Baigent. I believe he wrote to my attorneys, Messrs. Baxter, Rose, and Norton. I don't think I saw the letter. Before your interview with him, had he been in the house some time?—I cannot say. I am under the impression that I was in the room from the beginning. Our interview was at the Waterloo Hotel. I don't recollect what occurred that day very well, so cannot say if any other gentlemen except those mentioned were there. Did Mr. Store Smith say, "Why, that cannot be Sir Roger? he is too old and too tall, and has nothing in common with him?"—No. And upon that, did the other gentlemen get up and walk out of the room?—If you say so, I won't dispute, but I have no remembrance of it. Did Mr. Spofforth then say, "Now, then, look at this gentleman," pointing to you?—He might have done. Did Mr. Store Smith then say, "I cannot swear that Roger Tichborne might not have developed into this gentleman," and did Mr. Spofforth tell Mr. Store Smith and you to go into another room?—Mr. Spofforth was in the room at the time.

'The Solicitor-General asked a number of questions as to what Mr. Store Smith said at that interview, and the replies of the Claimant were chiefly denials that such things ever were said, or allegations that if said they were falsehoods. The Claimant said, I believe there was some conversation about Cahir and Clonmel, but I must acknowledge that my memory seems to have failed me at this time. Were you asked how you amused yourself with flies, and did you say "Yes, I used to stick pins in them?"—Yes, I may have

said that. Did he ask you to draw a plan of Cahir barracks, showing roughly the position of "my rooms and those of Manders and Phillips," and did you say, "I'm not going to do that; I've done it again and again, and to the best of my belief I never set eyes on you before?"—Yes, I may have said that, for I believed he was nothing but a spy. Mr. Culleton was seen within forty yards of him when he entered the house, and if I had known that he had come down accompanied by Culleton I should not have allowed him to come in. I never said, "Manders would say anything, and sent you here to be a spy." I have the highest respect for Mr. Manders, and am quite certain he would not do any such thing. I don't believe that Mr. Spofforth tried to smooth matters over, or that anything was said about Mr. Manders. Mrs. Fraser might have been mentioned. Did Mr. Store Smith get up and say, "It is waste of time; I am quite certain I never saw this person before?"—No; but as regards that, I don't think he ever had.'

Then two young women, whose names I forget at the moment, were examined. They were daughters of the gatekeeper of Lord Glengall's park, in which the officers used to walk or ride daily.

Mr. Hawkins.—Their names were Woodman and Pierce, my lord.

The LORD CHIEF JUSTICE.—Yes. They speak of an altercation which occurred near the gate-lodge between Roger and another officer, and say that Roger had always a melancholy dejected appearance. He used to smoke at the lodge and take snuff with their father, and they are convinced the defendant is the same man. You remember, however—if you believe Mr. Store Smith—that he knew nothing of Glengall-park, and, when reminded of it, said it was the property of the Earl of Roscommon, there being no such person in existence.

I have now gone through the witnesses who are alive, and who, at one side and the other, speak of the identity or non-identity from the personal appearance of the defendant. To the living we are bound to add the dead, and foremost of these, of course, comes the Dowager Lady Tichborne. With regard to the frame of mind in which Lady Tichborne approached this subject I have already spoken, but there is still one observation to make, and it is by no means an unimportant one. I have not yet directed your attention to the question of handwriting. It was one of the tests by which the defendant called upon Lady Tichborne to recognise him as her son, and of course no mother would fail to recollect the handwriting of her son, with whom she had been in correspondence up to the time he attained the age of twenty-four years. If you find by and by that the handwritings of the defendant and of Roger Tichborne are so dissimilar that it is impossible to believe that they are the handwriting of the same man, except upon some hypothesis which can scarcely have been present to the mind of Lady Tichborne, it is a fact which you will take into consideration in determining how far her judgment in his favour is to be relied upon. The observation applies more strongly to Mr. Hopkins, the family solicitor, who espoused the defendant's cause—not professionally, but as a friend—with a degree of zeal, and sometimes vehemence, which we could hardly have expected in one of his age and position. He had had letters from Roger and also from the defendant, so that the handwriting of each was before him. Mr. Hopkins might have had an unerring test. He

was thoroughly acquainted with all that had been done with reference to the Tichborne and Doughty properties, and I should suppose that the first test which the family solicitor would apply would be to ask whether the person who claimed to be Roger Tichborne, and who must have known about the disposition of the property, possessed the knowledge which would have been expected. You will see when I come to the Upton part of the case what the defendant's knowledge is, or, at all events, was; and if you find he was in a state of the blindest ignorance, then Mr. Hopkins' recognition of him is in this dilemma—either the defendant had at that time acquired a knowledge of the disposition of the family property, and so satisfied Mr. Hopkins, and if he did, the inference is to be drawn that he only learned the matter for a moment and afterwards forgot it, or if he had no more knowledge than was exhibited by him at the late trial, then Mr. Hopkins' recognition is not of much value. There are many other persons who might have been called as witnesses, but were not called.

But there is one witness, now among the dead, who must be ranked on the other side, and of whom I must say a few words, and that is Lady Doughty. Lady Doughty for years was a second mother to Roger Tichborne, and in the last years of his life in this country he was more with her than with his own mother. If there was any one who must be familiar with the personal appearance and all those things which go to make up the sum and substance of Roger's personality, it was Lady Doughty. Perhaps I should not be justified in putting her on the same level as his mother, yet the difference as regards the latter part of Roger's life could not be great. Lady Doughty, when she knew she was in the presence of death, testified to her conviction that the defendant was not Roger Tichborne. We have Lady Doughty's oath twice. She was examined on the former trial, and examined on this. Not that she could be brought into court, for she was within a few hours of death, but we have her testimony then taken, and it is entitled to the greatest weight and respect.

Such are the witnesses on the one side and the other. But there is this further consideration. To which of those two sets of witnesses is the greatest credit due, not in respect of the honesty of their intention, but as regards their opportunity of knowledge? You have on the one side, as regards the family, Lady Tichborne and Mr. Bidulph, who say the defendant is the man. All the other members of the Tichborne family and all the members of the Seymour family are on the opposite side, and deny that the defendant is Roger Tichborne. But, again, the defendant has on his side a number of the old servants of the family—old family servants, but not in the same position as Bourdon and Gossein. He has also labourers and tenants about the place. Now, which set of witnesses is most likely to have been best acquainted with Roger Tichborne? Relations like Lady Doughty, and like his cousin, relations with whom he was in constant and familiar intercourse day after day, and hour after hour; living with them, associating with them; or persons out of doors, servants in the kitchen, labourers on the farm, tenants in the neighbourhood, people who only saw him from time to time? Which set of witnesses, all equally honest and equally sincere, was most likely to be well informed, and to form a correct judgment? I think that is a point not altogether to be overlooked.

Then, when we come to the military witnesses, we find again a marked difference between those on the one side and the other. No fewer than 12 officers of the regiment have testified to their conviction that the defendant is not Roger Tichborne. Of non-commissioned officers and privates there is not a very large number—14 I think, in addition to the officers; and besides, there are Captain Moreton and Major Kellett, who were acquainted with Roger in Ireland, and are convinced that the defendant is not Roger. On the other hand, he has two officers of the Carabineers, Colonel Norbury and Captain Cunliffe, and he has a long list of non-commissioned officers and privates of the same regiment, who say the defendant is Roger Tichborne.

Here, again, which are most likely to form a correct and accurate judgment of the defendant? The learned counsel for the defendant boasted that he had no colonels or superior officers on his side, but that he had non-commissioned officers and privates. So he has. And he says they are much more likely, standing before their officer and receiving from him the word of command, to have a distinct recollection of his personal appearance than his brother officers. Is that so? Among those brother officers is one who, when Roger Tichborne joined, was regimental sergeant-major and drilled him. These officers, in addition to seeing him in the barrack-yard or on parade, or when the regiment was out, were in daily familiar intercourse with Roger Tichborne in the officers' room and at the regimental mess, and among them was Captain Polhill Turner, with whom Roger was at Clonmel, and with whom he used to play at *écarté* every evening. Is the position of the learned counsel for the defendant right? Are soldiers more likely to have an accurate remembrance of Roger Tichborne than his brother officers? It is necessary to form a judgment as to all those things when you are considering the evidence. The defendant has the advantage of numbers undoubtedly, but the maxim that witnesses should be weighed, not numbered, is one which has existed from the earliest time, and is one of the elementary principles in judicial proceedings. I believe those men to be as honest, and as much disposed to speak the truth, according to their conviction, as the highest gentleman that came into that box. But one must weigh them and consider how far their numbers ought to prevail over what might be thought superior intelligence and opportunities of observation.

Then there is one other point to which I would call your attention, and that is whether on the evidence there may not be such a similarity between Arthur Orton, whom the defendant is represented to be, and Roger Tichborne, in one or two most important particulars, that these men, though speaking according to their opinion and conviction, may be mistaken? I do not say it is so. That is a question for you to exercise your unbiased judgment upon. But I will, before I conclude, call your attention to certain portions of the evidence with respect to Arthur Orton and with respect to Roger Tichborne, in order that you may see whether there may not have been such a resemblance as to lead to an honest belief in a real identity, which, nevertheless, does not exist. And here my learned brother reminds me that among the servants who are ranked upon the side of the defendant is Bogle, but I have already dwelt upon those points which may fairly arise with respect to the weight of his evidence. I have no doubt he is a very important witness.

Few persons knew Roger better, and his judgment, unless you may see reason to doubt it, ought to weigh in the scale in favour of the defendant.

A Juror.—It was remarkable that so few of the soldiers could recognise the photograph of Roger.

The LORD CHIEF JUSTICE.—Perhaps the solution of which I have been referring to is this. It may be when you come to look at the evidence with regard to one or two peculiarities of Arthur Orton, on the one side, and Roger Tichborne, on the other, that you may come to the conclusion that there is some resemblance between the two, which a little exaggeration—and it is very easy to exaggerate to oneself what we are disposed to believe—may convert into identity. We are all so subject to delusions; the human mind is so apt to persuade itself into a belief of that which it desires, that if there be a likeness between A and B, and we want to make out the identity of the one with the other, it is very easy to exaggerate the resemblance in particular points and persuade ourselves of that which we desire to believe. It may be in that way that those witnesses of the Carabineers have exaggerated a certain degree of resemblance, just as it is possible that those who only see in the defendant an impostor would persuade themselves that there is not the likeness which, in point of fact, there is. For I cannot help believing, whether the defendant is or is not Roger Tichborne, that there must have been many points of resemblance between the two. I cannot suppose that honest people would come forward and say, 'That is Roger Tichborne,' unless there was some great likeness between the defendant and Roger Tichborne. It is impossible. I do not think that even the members of the family would for a moment have entered into communication with the defendant if they did not hesitate as to whether there was not, at all events, some degree of likeness which called for further examination. If, for instance, one was fair and the other dark, if one was of middle height and the other 6ft. high, they would not have hesitated for a moment in declaring that this was not the man.

I pass now from the question of identity of person as based on the opinion of witnesses to a question which is of quite equal or of greater importance, and that is, how far there is not outward identity or resemblance, but inward identity of mind, and that can only be ascertained by testing the knowledge of the defendant upon points as to which we must assume Roger Tichborne possessed knowledge. That investigation presents itself in two forms; in the first place, in the shape of which we have had it hitherto—namely, as regards conversations which the defendant voluntarily entered into with persons who desired to ascertain whether he was the true Roger Tichborne. He himself challenged recognition upon the ground that he was able to bring to the recollection of those whose recognition he desired instances of knowledge of things which Roger Tichborne alone could have. He commenced his litigation in that way by his affidavit, stating circumstances known to Roger Tichborne with the view of satisfying persons that he was Roger Tichborne. But all that we have had out before, and the case is complete on that head. But there is another form quite as interesting and important, and that is the test applied to him upon his cross-examination, to try his knowledge of the life of Roger Tichborne. I divided that life before into several epochs—his life in Paris, his life at Stonyhurst, his life in the Army,

and his life in South America. His life in South America I have exhausted in inquiring into the Orton case, so I shall not have to go into it again. But now I must ask you to follow the statements of the defendant with respect to Roger's life in Paris.

We know that Roger was born and brought up in Paris, and that he lived there until 1845, when he was between 16 and 17 years of age. Now what are the things which would impress themselves upon the mind and memory of a boy grown up to the period of adult life? There would be relations and acquaintances and friends with whom he was in the habit of associating. He would recollect all or some of them. He would recollect the residence of his parents, where he remembered himself first, where afterwards. He would recollect any school to which he went, the tutors who instructed him, any one to whom his religious education was confided. He would recollect the servants who had remained for many years in the service of his parents, probably the excursions he had made with his parents from time to time, especially if those excursions were attended with particular circumstances. He would recollect his playmates and the boys with whom he had been in the habit of associating. With respect to all these matters the defendant's knowledge was very properly tested upon various particulars, and I will just briefly call your attention to what he said, in order that you may see whether there was displayed such an amount of knowledge as would lead you to believe he was or was not the person he represented himself to be.

And, first, as to relations and friends. He was examined on that point in his preliminary examination before Mr. Roupell, and I must say he appears at that time to have been totally at a loss. It is important to contrast what he said at the preliminary examination with what he said at subsequent examinations, when, finding to what points the preliminary examination had been directed, he had an opportunity of filling up the voids in his knowledge. When asked by Mr. Chapman Barber whether he could mention any person in Paris except his father and mother with whom he used to have any conversation, he answers 'Yes, I could tell you of hundreds.' 'Tell me of some,' says Mr. Chapman Barber. The answer of the defendant is, 'I cannot remember;' and when pressed again and again he gives the same answer—'I cannot remember.' At last he mentions the name of Mr. Turville. Now, we cannot have forgotten the letter written by Mr. Turville from Australia, in which he says he cannot speak to the identity of the defendant, because he never saw him in his life. The defendant is asked, 'What was Mr. Turville?' and he says, 'A friend of my father's.' When asked to name any houses in Paris at which he visited, he answers, 'I visited at plenty of houses there. I cannot name any. I don't remember just now.' Then he is asked as to his playmates, and again he answers, 'I do not remember. I don't remember the name of any one of my playmates. I cannot remember the name of one.'

Well, let us pause for a moment. The defendant is asked whether he remembers the name of any one he knew at Paris as acquaintances, friends, or relations, or could name any boy who had been his associate or playmate. Now, there were several persons who were on terms of intimacy with Mr. and Mrs. James Tichborne—there was the Abbé Salis, who lived below them in the same house; there was M. D'Aranza, and there

was M. de Mandeville, who were constantly about the house; and there were the two young Nangles; for, though Mrs. James Tichborne could not bear Mrs. Nangle, the latter had two sons who were constantly associated with Roger, and used to play at shuttlecock and other games with him. Then there was Mrs. Nangle herself, with her two daughters, and there was Mr. Talbot Constable, who afterwards stood godfather to the defendant's boy, for Mr. Talbot Constable in his boyhood resided at Paris. The defendant, when pressed, knows none of them. But a day or two elapsed, and he comes to be examined by Mr. Serjeant Ballantine, and then he remembers two persons, Mr. Talbot Constable and a Spanish gentleman, a friend of his father's. Lady Tichborne was present at the examination at which the defendant could not remember any of the names; so probably she said to him afterwards, 'My dear Roger, how could you have forgotten the names of your father's old friends? Don't you remember So-and-so and So-and-so?' which would account for the difference of knowledge exhibited by the defendant at the first examination and at that which was held two or three days afterwards.

Then, when he comes to be examined about his relations, he says that 'Baron Brémont' was an uncle of his mother's, and that he had two sons, Charles and Edward, and two daughters. But with regard to this it is to be observed that there was no Baron Brémont, but there was a Vicomte de Brimont (not Brémont); and, what was a greater mistake, Vicomte de Brimont was not related to Roger's mother's family at all, but was a distant relative of his father. When asked as to the spelling, the defendant says he believes the name was spelt both ways. And then Serjeant Ballantine says, 'You stated that Vicomte de Brimont was uncle to your mother. Can you swear that the De Brimonts were any relations whatever of your mother, and that they were not relations of Sir James Tichborne?' The answer is, 'Well, I have never gone into their pedigree.' Then he says, 'I do not think it is true he was my uncle by the mother's side. We always called him uncle.' But I don't find in Roger's letters any place in which Vicomte de Brimont is called his uncle. Baigent was present when the defendant made this mistake, and it is very likely he said, 'How could you have said he was a relation on the mother's side? Why, it was on the father's side that he was related to you.' That might account for the change that may be observed in the defendant's knowledge on this subject.

Then as to the Nangle family, we know that their intimacy with Mr. James Tichborne was very close, and they were constantly coming to the house. The defendant entirely forgot that there was a second daughter. It is said in explanation that this lady had gone into a convent, but that was not until long after Roger Tichborne had left Paris. Major Nangle was very intimate with Roger, and yet the defendant knew nothing about him. The defendant was asked as to the position of Mrs. Nangle with respect to his father and mother, and he says there were disagreeable scenes between his father and mother on her account. In that the defendant is right, and Mrs. Nangle herself admits it. She says she never had any quarrel with Mr. or Mrs. Tichborne, and that she was not the cause of any disagreeable scenes between them. But then she says, 'Mrs. Tichborne had a great dislike for me and for all the family. Indeed, for me more than all the rest.' And afterwards she says, 'I used

to go walking with my brother on Sundays, and she could not bear to see me at the house.' I think it results, therefore, from Mrs. Nangle's own evidence that she was the cause of bickerings between the husband and wife, not through her fault, for Mr. Tichborne exonerates her from any fault whatever, but because the jealous nature of Lady Tichborne could not bear her husband's relations.

How then did the defendant become acquainted with these bickerings? It is easily explained. Mrs. Nangle came and had an interview with the defendant and denounced him. That would be made known to Lady Tichborne, who would, of course, be disposed to speak in disparaging terms of Mrs. Nangle as having been the cause of bickerings between her and her husband. The mistake of the defendant in supposing the De Brimont family to have been related to Lady Tichborne is natural, and it is quite possible that Roger might have fallen into the same mistake, knowing that the family was a French one and that his mother was a French woman; but then there is the fact that he fails to recollect anything about the Nangles, who were his relations, playmates, and associates, and who lived in Paris all the time he was there.

Then he is asked about the servants. You could not expect any one to recollect all the servants that may have passed through a family from the period of his boyhood. But suppose there had been an old servant who had been in the family from the time you had been a baby in arms until you were a grown-up youth, you would not be likely to forget him. Well, there was just such a man, M. Gossein, who had been in Mr. James Tichborne's service from 1830 to 1844, and the defendant is asked whether he knew him. He says 'I fancy the name sounds familiar, but I cannot remember who he was.' Then he is asked, 'Was Gossein for many years confidential servant to Sir James Tichborne? Did he remain his confidential valet from 1829 to 1845?' Now this is not quite accurate, because it was not from 1829 to 1845, but from 1830 to 1844, that Gossein was in Mr. Tichborne's service, but it was sufficiently accurate to make the answer of the defendant an incorrect answer, for he replies to the whole question by this sweeping assertion—'I say it is false.' Then he is asked, 'Do I understand you to say that you don't know M. Gossein, who was in your father's service for 20 years?' That, again, is a mistake. To this the defendant answers, 'No, I do not know him at all.' So there we have total ignorance on the part of the defendant. Then there is the other old family servant, William Burdon. Having met him at Croydon before the examination to which I am referring, the defendant knew that he had been in his father's service; but when he saw Burdon at Croydon he did not know anything about him, and mistook him for one of the Nangles.

The next thing we should expect him to know would be the names of his masters. At a great public school we should hardly expect a boy to remember the names of all the masters, but he would be expected to recollect the names of his own particular masters. And that observation becomes much stronger when you are dealing with the case of a boy who was educated at home, and had only single masters, by whom his education was conducted. If those single masters were with him for a long period it would be impossible he should forget who they were. Roger's masters were first M. Chatillon, who remained until Roger was 11 years old; then there was another for a few weeks then there was the Abbé Salis, also for a fe

weeks; then M. Jolivaunt. But between the time of M. Chatillon's leaving and M. Jolivaunt's coming the experiment of sending him to school was tried. Mr. James Tichborne was anxious to send Roger to school in England, but the mother would not hear of it, and finally they compromised the matter. They agreed he should be sent to a French school, where his mother would have constant access to him, and accordingly he was intrusted to the care of M. Dupanloup, who at that time kept a school near Paris. But the mother used to go and say that Roger should not be subjected to the usual discipline of the school, so M. Dupanloup said, 'Then take him away,' and he was taken away. Well, you would expect a boy to remember a tutor who was either permanently residing in the house or coming every day. The defendant recollects Chatillon. He saw Chatillon in Paris, and he knew he was his tutor; but he totally forgets that he ever had any other tutor at all. That strikes me as somewhat strange. Then with respect to M. Dupanloup's school, he is positive he never entered it. In answer to the Solicitor-General, he says, 'I never went to school at all until I came to Stonyhurst. I am sure I never went to school to M. Dupanloup. I say it is false.'

Now, gentlemen, there is no earthly doubt that Roger Tichborne did go to the school of M. Dupanloup, and that he was taken away in consequence of the interference of his mother. It was known to the Abbé Salis, to the Nangles, to M. Gossein—in fact, to all the Paris witnesses; and unless all these witnesses are in a conspiracy to tell you this is a fact which, in truth, had no existence, it is one of those things which is beyond the possibility of doubt. Now consider what going to school first is. Here is a boy who comes from the quiet of home, from his mother's apron strings, and he suddenly plunges into a new world, a new phase of existence. He finds himself cast among a number of boys, new faces, new companions, and, for a time at least, he cannot find his place among them. Do you think he would ever forget it? That is a matter upon which you must exercise your own common sense.

We now come back to the tutors. Jolivaunt was Roger's tutor for three or four years, and a very bad tutor he proved. Roger's father speaks of him as 'that accourelled Jolivaunt' who took him round to billiard-rooms and *cafés* instead of instructing him. When asked who Jolivaunt was, the defendant says he was a boy whom Chatillon, when they were going out to walk, used to take as Roger's companion. Now, which would you expect a man to forget, the tutor whom he had earliest, or the tutor whom he had latest? Do you think the recollection of the first would merge in that of the second, or the recollection of the second would be lost in that of the first? And especially when the second was a person with whom the associations had been more pleasant, because he had taken the boy about to various places of public resort. The learned counsel for the defendant says, 'His recollection of Paris is gone. He had so many painful recollections of Paris life that by an act of the will which the mind is capable of performing he is determined to exclude the remembrance of Paris from his memory, and he has succeeded in doing so.' I must say I am not satisfied with the theory of the learned counsel on that point. It seems to me to belong to what I call the region of *nebulous metaphysics*. Painful reminiscences do not admit of being blotted out and obliterated in that easy way. I believe it is just the reverse.

The intensity of the emotions which particular events have excited in the mind will baffle all exertions of the will to suppress their memory while the memory is alive. Mr. Chapman Barber asked the defendant as to the name of any book that he had read with Chatillon, and he says, 'I do not remember the name of one book I read with Chatillon. I left Paris in 1845. I did not begin Latin and Greek until I went to Stonyhurst. He taught me no Latin nor Greek, but only reading, and grammar, and geography. French geography; not a regular course of Latin. I cannot remember the name of one book, I read so many. I did not get above simple division.'

Another thing you would expect a man to recollect would be the names of the streets in which he resided with his parents up to the age of 16 or 17. Try it by yourselves, gentlemen, and see whether you recollect the places you lived in with your parents. Now, Mr. and Mrs. James Tichborne resided, from 1829 to 1839, in the Rue de la Ferme; from 1839 to 1845 in the Rue St. Honoré; from 1845 to 1851, in the Rue Castiglione, and in that year they removed to the Rue des Pyramides. When asked in cross-examination before Mr. Roupell where he resided in Paris, when he first remembered, his answer is in the Rue du Madeleine, instead of the Rue de la Madeleine, whereas Roger Tichborne never lived there at all. But why did the defendant give this answer? The only explanation I can suggest is that he found Lady Tichborne living there when he went over to Paris to see her. Then he is asked whether the family resided in the same house all the time they lived in Paris, and he says they did not, but he does not remember the exact places where they did reside. He is asked, where was the last place he resided in before he left Paris, and he says the Rue St. Honoré, near the Louvre, to the best of his remembrance, but he will not be certain. But that was all wrong, because it was not in the Rue St. Honoré, but in the Rue Castiglione. Lady Tichborne was present at this examination, and must have been aware of the defendant's mistakes, and probably as her opinion was that the mistakes made by the defendant were all due to his shattered memory, no doubt she would tell him he had made mistakes. And, accordingly, in 1871, when he was examined, he was better prepared.

Then he speaks of the Rue de Ferme, instead of de la Ferme—a mistake which a Frenchman would not fall into, but which may be explained by the circumstance of the defendant having forgotten his French. Then he is asked as to the Rue des Pyramides, which he is asked to spell, and after much pressing spells it Pyramide. Here, again, there is a very serious mistake for a Frenchman to make. It is written in the plural. It is 'the street of the Pyramids'—a street built at the time when the Egyptian campaign was a matter of great interest to the French people, and when the bulletins of the great Napoleon had stirred their hearts so much. There is nothing in the whole range of military bulletins so stirring as when Napoleon reminds his soldiers how many centuries were looking down upon them from the Pyramids. It is the street not of the Pyramid, but of the Pyramids, and the mistake which the defendant made could be made only by a man who knew nothing about it or had forgotten all his French. The statement of the defendant that he had M. Chatillon for a tutor when living in the Rue des Pyramides was a very serious and, as many thought, a fatal mistake. The Rue St. Honoré was the street in which his father and mother last lived

in Paris prior to his going to South America—the street where he was in the habit of going to see them at the time he was in the Army in 1851 and 1852. It was the place where he saw them last and took a final leave of them on his departure for South America, and it was the street in which they had lived since the year 1845, there being a period of seven or eight years since Chatillon had ever been tutor. M. Chatillon ceased to be tutor in 1840 and Roger did not go away till 1852. Therefore there is a long interval to be accounted for. The defendant, on being examined as to the statement he had made before Mr. Roupell, said :

‘I spoke from the impression which was then in my mind when I stated that my first recollection was of my residing in the Rue de la Madeleine. I cannot swear to either the Rue de la Madeleine or the Rue de la Ferme as the place. I think it is safer not to swear to any single residence my father and mother had in Paris.’ He would not swear to any single residence—he would not swear to anything. He said that at one time his parents lived in the Rue St. Honoré, opposite the Louvre, near the Hôtel de Louvre, which they could see from the windows. It is perfect nonsense to talk about having seen the Hôtel de Louvre before 1845, because it was not built till after the accession of the late Emperor Napoleon. He also swore that his father and mother lived at one time in the Rue des Pyramides, where Chatillon came to give him instruction. These assertions he swears to positively ; and then the Attorney-General, not being satisfied with his positive statements, worries him about them over and over again, until he swears he will not swear to that which he has already distinctly sworn to. He was then asked about the Rue de la Ferme, which he said was in the outskirts of Paris, and there was a long cross-examination as to which side of the Seine it was situated. He also said he lived at one period in the Rue de la Madeleine, in which his parents never resided at all. He is right, however, in saying that his first residence in Paris was in the Rue de la Ferme, because he was born in it, and that circumstance would be conveyed to anybody's mind who read the certificate of baptism which was procured from Paris. He is right as to the Rue des Pyramides being one of the residences of his parents, but utterly wrong in saying M. Chatillon came to him there. He is right as to the Rue St. Honoré being one of the streets, but wrong in saying it was the last place where his parents resided, or that it was opposite or near the Hôtel de Louvre, because at that time the Hôtel de Louvre was not built, and the site was not visible from the house they inhabited, No. 364, at the opposite end of the street.

Two suggestions were made which, I cannot help thinking, were dishonest. The first was that there were two residences in the Rue St. Honoré, when, in point of fact, there was only one; and the second that there was an older Hôtel de Louvre, somewhere in the neighbourhood, and that was the hotel to which he referred. The whole body of the Paris evidence tends to show that the Tichbornes never had but one residence in the Rue St. Honoré, and whoever suggested that they had a second residence in that street, in my opinion suggested what he knew to be a wicked, downright, premeditated, deliberate lie. There has not been the slightest attempt in the evidence to show that the Tichbornes had a second residence in the Rue St. Honoré. I am quite sure my Brother Ballantine would not lend himself to

a deliberate falsehood, but I have no hesitation in saying that it is plain to demonstration that this was a fraudulent device to get out of the difficulty and impose upon the Court, because no one who attends to the questions of the Attorney-General and the answers of the defendant can entertain the remotest shadow of a doubt that counsel, witness, Judge, and jury had the big Hôtel de Louvre as it stands now in their minds at the time of the cross-examination.

Upon the present occasion we have had the second hotel in like manner attempted to be brought forward, but no evidence of it has been given and all the evidence tends to negative the possibility of its existence. And there were blocks of houses which prevented the hotel being seen. Gossein said the family were still in the Rue St. Honoré when he left. The windows of his room looked into the street, and from there the Hôtel de Louvre could not have been seen. The Hôtel de Louvre was built during the last Empire. The defendant's counsel suggested that what the defendant meant was that from the top of the house the Hôtel de Louvre could be seen. That is not what the defendant said, for he said that you could see the hotel from the windows of the house. Mr. Alfred Seymour, who has been familiar with Paris since 1839, is asked : ‘From that house can the Louvre be seen at all?—No. Was there any Hôtel de Louvre at that time to your knowledge in existence?—No.’ It is the more remarkable that any mistake should be made in such a matter, because this was the last Paris residence of the parents of Roger Tichborne, and he left it at a time when his memory was fully developed and when his recollections might be supposed to be thoroughly trustworthy.

I have been speaking of the recollections of the defendant as to his secular education, and now let us see what his recollections are with regard to his religious education. Père Lefevre says he prepared Roger Tichborne for his first communion, imparting to him the elementary knowledge of matters of religion ; but when the time came for the first communion, to which in the Roman Catholic Church great importance is attached, inasmuch as he lived at some distance, he committed Roger to the charge of Père le Humbert, who was vicar of the Church of the Assumption in the Rue St. Honoré. The first communion, as we were informed by the Abbé Salis, is usually received between the age of 11 and 13, and is rarely deferred beyond the latter age. The defendant, however, says that Roger Tichborne received his first communion when he was between 9 and 10 years old. It is an event likely to make an impression on the mind of a boy and to be remembered in after life. It was the Père Lefevre in the first place, and the Père le Humbert in the second, who prepared him. The defendant is asked who prepared him, and he does not remember. Then he is asked where the ceremony took place, and he thinks it was at the Church of la Madeleine, whereas in reality it was at the Church of the Assumption, in the Rue St. Honoré. Next he is asked what was the form of preparation, and he says, ‘the ordinary preparation.’ He is asked what books he read, and he says *The Garden of the Soul*. Now, *The Garden of the Soul* is a Catholic book containing prayers and devotional exercises. Now, there is a French edition of that book, but it is printed in the English language. Lady Tichborne probably had the work in her possession, and the defendant, perhaps, saw it and drew the inference that

would be used in France, but as the French ecclesiastics who prepared Roger Tichborne did not know English, it is clear defendant must be wrong on that point.

Then there comes the question as to the presents made to him. On the occasion of his first communion we know that he had given to him certainly a breast-pin, and some of the witnesses have said a gold watch. The Solicitor-General asks him whether any present was made to him on the occasion of his first communion, and he answers, 'Yes; it was a piece of red cloth cut off one of the late Cardinal's dresses.' He adds, 'It came to me fixed on paper, with some writing upon it.' 'Was it a sort of relic?' asks the Solicitor-General. 'Yes.' 'And was he a canonised Cardinal and Saint?' 'Yes, I expect he was.' As this relic was hanging up in the defendant's house it is sent for and produced, when it turns out to be part, not of the dress of a Cardinal, but of the blanket of St. Charles Borromeo, Archbishop of Milan in the latter part of the 16th century. On the back is a paper thus inscribed:

'This belongs to Roger Tichborne. Red cloth cut off from the blanket of Saint Charles Borromée, and given to me in the Convent at Milan, in the chamber where Saint Charles Borromée used to make his spiritual retreats, as having been used by that Saint. 15 July 1843.'

This relic must have been given to him later than the date of Roger Tichborne's first communion, for he would then have been 14½ years of age. In re-examination, it was suggested that this piece of the blanket was given to him on the occasion of his confirmation, but the defendant said he could not recollect whether it was given to him on the occasion of his first communion or on the occasion of his confirmation. Then he was asked when, and where, and by what Bishop he was confirmed, and he was unable to say. The Attorney-General afterwards pressed him and asked him again when it was given, and he said he could neither tell when, where, nor by whom the relic was given. He is next asked whether he had any other relic, and he said that he had not, and it appears he had no knowledge or no recollection of the breast-pin or the watch.

Then comes the question with regard to Father Lefevre, who was much attached to him, and to whom he always came on the occasion of his saint's day. In short, he never failed to call upon him on that day. He is borne out in that respect by Mrs. Nangle. Father Lefevre says Roger was entrusted to him from the beginning as his confessor, for several years. Roger used to take great interest in a story which Père Lefevre used to tell him. It was a remarkable story. Père Lefevre, at that time a young man, had perfectly white hair. It had been originally of a dark colour, but when in Spain he dreamt that he saw his father murdered, and on awaking he found that the mental agony and terror he had gone through had changed his hair to a pure and perfect white. This story much interested the boy, and Père Lefevre says he told it to him over and over again. Consequently the circumstance would be likely to remain in the boy's recollection. Shortly before his departure for South America Roger Tichborne went to see the Père Lefevre, and confided to him the secret of his attachment to his cousin; and the evidence of Père Lefevre when we come to that part of the case will not be unimportant. The defendant says the Abbé Salis was his confessor, and he ignores M. Lefevre. 'Should you be surprised,' he is asked, 'to find that M. Le-

fevre, of which you say you have no recollection, was the person who prepared Roger Charles Tichborne for his first communion, and was his confessor until he left Europe?' To which the defendant answers, 'It was not so.' Then he says the Abbé Salis was his mother's confessor and his own:

'You confessed to him?—Yes, I knew him very well. Was he your regular confessor?—Yes. When did you last confess?—Not since I left Paris in 1845. Was he Mrs. James Tichborne's confessor?—Yes. Did you confess to the Abbé Salis?—I believe I did. Surely you must know?—You have no right to ask me. I do not ask you what you confessed, but whether you confessed?—I shall not answer. Did you confess to any one else?—Yes, to lots of priests. Name one.—I will name one; Father Tilt, because he is dead. Why because he is dead?—Do you think I want to bring gentlemen here to be harpooned at by you for half an hour? It is bad enough for me. But why because he is dead?—Because he cannot be called. Why, then, did you mention the Abbé Salis?—Because I had to mention him about other matters. Well, you said "lots of Priests?"—Well, I have lived since 1845. To whom did you confess in Paris besides the Abbé Salis?—I do not remember.'

The defendant was much pressed on this point, but would only answer that he did not recollect. The result is that the defendant is wrong in two important points. He is wrong in saying that the Abbé Salis ever was his confessor, if the Abbé Salis is to be believed, for he swears that he was confessor neither to Roger nor to Mrs. Tichborne. The second error is in saying that he never confessed to the Père Lefevre, if we can rely upon him and the other French witnesses who agree in saying he was known to be confessor to Roger Tichborne during the time of his residence in Paris. Here, again, the whole thing turns upon whether you think that the religious instruction in preparation for a first communion or the ceremony itself is likely to make a lasting impression. Still more, would not the fact of your confessing to a person, making him the depository of your secret thoughts, and possibly secret sins—at all events of ordinary failings and the deviation from the strict line of religious duty into which all are more or less liable to fall—would not relations so sacred and important, be likely to fix in one's memory the recollection of the individual? The absence of knowledge on the part of the defendant is a strong element in the consideration of the question whether the defendant is Roger Tichborne or not. He is further asked whether there was any priest to whom he used to complain of the conduct of Lady Tichborne. He said he might have done so to Père Alexis Lefevre. That is strange, because before he had ignored it. The defendant says he complained, but he cannot tell to whom he complained. He says he was kept in frocks till he was eleven or twelve years of age, and of that he complained. He does not remember whether he complained of anything else.

Now comes a thing which every friend of the defendant must deeply regret, and which was intended as an insult to the Solicitor-General. The defendant says, 'You appear to be very innocent, considering that your brother is a Jesuit. You must know.' To which the Solicitor-General makes this dignified reply, 'I only answer for my sins. I do not know that I am to be subject to this kind of thing; not that I have not the highest love and veneration for my brother.' Inde-

pendently of this being intended as an insult, I cannot help being struck with this, as coming from a man who professes to be—and is, I presume, if his account be true—a Roman Catholic. It is not all Roman Catholics who care for Jesuits, but I think it would hardly be consistent with the views of a Roman Catholic to attempt to insult a man by suggesting to him that his brother was a Jesuit priest.

The defendant's story about his being when a boy dressed in a certain kind of frock and devoted to the Order of the Blue, does at first sight strike one as being very absurd; but it came out that sometimes children are devoted to the Blessed Virgin, and wear for a certain time a dress consisting of a white sort of tunic, having more or less the appearance of a frock, with a blue border. Therefore the defendant may possibly be right in saying he was devoted to the Virgin in this way. Mrs. Nangle, however, thinks that Roger Tichborne was not so devoted, although his brother Alfred undoubtedly was.

Well, now we know that Roger Tichborne corresponded with the Abbé Salis. The defendant is asked whether he ever corresponded with any clergyman after he left France, from 1845 to 1853. He says he believes he did, but he cannot recollect with whom it was. There appears to be a great deal of forgetfulness as to the person with whom he had this correspondence, not only as regards name, but as regards identity also. The only person to whom Roger was in the habit of writing was the Abbé Salis, and you must ask yourselves whether Roger Tichborne could have forgotten who was the clergyman to whom these letters were addressed.

There is one more subject which we will consider to-day. It appears that Mr. James Tichborne was in the habit of making an annual excursion either to the sea-side or to some other place of public resort. One of the very earliest of these excursions was made in 1839, when Roger Tichborne was just 10 years old, to a place, Pornic, in Brittany. M. Chatillon accompanied the father and Roger to that place. They went to bathe in the sea at Pornic, and then the accident happened of which we have heard. They had done bathing, and Roger was waiting for M. Chatillon to finish dressing, when a ship sailed into the harbour at a considerable rate. Roger ran up to the top of a bit of rock to look at the ship, but somehow or other he slipped and fell. Chatillon picked him up insensible and carried him to the house of a lady who lived near the spot. For some time he remained insensible, but he afterwards recovered, and on the occasion of his recovery, which occurred on the festival of the Assumption, the father sent to the church at Pornic a handsome present of vestments for the officiating priest, prayers having been offered up there for the recovery of the boy. Chatillon said although Roger fell against a jutting rock no mark was left, because he did not cut his head at all. The fall only caused a temporary depression, and the head afterwards became all right again. Moreover, the injury was not at the back of the head, but near the forehead.

The defendant on first being examined about the incident made one or two different statements. The subject appears to have been brought up on the occasion when Chatillon visited Lady Tichborne at Paris with a view of recognising defendant. M. Chatillon put some questions to him, and was struck very much by the difference of his appearance. He asked him whether he remem-

bered what occurred in Brittany, but the defendant recollected nothing about it. M. Chatillon then mentioned what had happened at Pornic. Thereupon the defendant said he had a scar on the back of his head to correspond with what occurred on the occasion of his fall. Mr. Holmes and Mr. Leete, who were present, proceeded to look for the scar, but on that occasion they could not find it, though the defendant says a hair-dresser afterwards discovered a scar on the scalp.

After 1840 the father made a similar excursion every year, taking Roger with him. One year they went to the Pyrenees, in 1842 to Germany, in 1843 to Brittany, and in 1844 to Normandy. There is no doubt that on the last occasion Mr. James Tichborne, with his sons Roger and Alfred, and the nurse, went by steamer to Jersey and visited the island; and on a previous occasion, in 1840, when Chatillon was with them, they all went to Guernsey. Thus Roger was there twice in the Channel Islands. On the last occasion, in 1844, he wrote a letter to his mother, in which he says:

'Dear Mother,—I am sorry to hear you are unwell, but in three weeks from this time we shall return, and then we shall see you. We went to Jersey in the steamboat, and were there three days, looking at things on the island. Belle Tête, papa, and myself are quite well.' No doubt Belle Tête meant Alfred, because we know he was of the party, and had a very pretty head of hair. I now call your attention to what he said at his first examination by Mr. Chapman Barber, and you will see what he then knew, and what further knowledge he exhibited on the subsequent examination. He is asked—

'Do you remember going a tour in the south of France?—Yes. Where did you go?—I do not remember the places—I cannot recollect a single place or anything which I saw. Do you remember any particular circumstance which occurred in that tour?—I do not. Was anybody with you besides your tutor?—I do not know whether there was or not. Did you stay at hotels or private lodgings?—I do not remember where we *slept*. Can you recollect a single thing you saw in that town?—I cannot.'

The strange part of the matter is that when he comes to be re-examined by Mr. Serjeant Ballantine his recollection is revived. Whether the Dowager, who was present, had been struck by his answers, and said, 'How is it you do not recollect the accident at Pornic, when you struck the back of your head?' we do not know. That may have been the case. In reply to Mr. Serjeant Ballantine he says he now knows that he went with M. Chatillon to a place which sounds like Ponie or Ponic, and fell on the rocks and cut his head. Up to this time there is no mention of the father, but on the examination in chief in 1871 the narrative becomes a great deal amplified, and he speaks then of going with his tutor and his father to Ponie. I should tell you that the proper spelling of the name is Pornic. He says he had a fall from the rocks and received a cut on the back of the head, and that the mark is there still. His father was present, but the defendant says he does not remember telling his father. It is a curious thing that the defendant should recollect the tour in the South of France, the tour in Brittany, and the accident at Pornic, while the excursions to Germany, Normandy, and the Channel Islands are entirely forgotten.

Again, his account of the accident at Pornic is somewhat confused. He says they were bathing,

in a lake, though it is a certain fact that there is no lake within twenty miles of Pornic. He also says that from Pornic he went with his father to the sea-coast, as if he thought Pornic was an inland town, instead of being, as it is, a seaport and a bathing place. It must be admitted that a boy ten years of age might perhaps mistake a recess of the sea for a lake, but what strikes one with surprise is his total forgetfulness of every excursion on the occasion of his first examination, and then the recollection of this particular excursion, with the incident attached to it, after he had had an opportunity of refreshing his recollection or getting information on the subject in the meantime.

It is also somewhat surprising that he should have forgotten all about the excursion to Jersey and the reference to 'Belle Tête,' who was no doubt his brother Alfred. In his cross-examination he says 'Belle Tête' may have been some person travelling with him; but it is obvious it could not have been a stranger. Well, gentlemen, I have now gone through the different heads with regard to which the memory of Roger Tichborne, or of anybody representing himself to be Roger Tichborne, might be tried and tested, and you will give such effect to the result of those tests as you may upon consideration deem proper.

SIXTEENTH DAY, Monday, February 23, 1874.

Gentlemen of the Jury,—I am about to call your attention to the statements made by the defendant on the occasion of his examination and cross-examination with reference to the life of Roger Tichborne at Stonyhurst—the second period of his life—and the first subject is the circumstances under which Roger was placed there. Now we know perfectly well that in consequence of his mother resisting the proposal to place Roger at a school in England, his father took the opportunity afforded by his visit to this country to attend the funeral of Sir Henry to leave him at school. Now, as to the circumstances under which he was introduced there—who took him to Stonyhurst. That, I take it, is a fair test, Roger being then 16 or 17 years of age. He would be likely to remember whether he was taken to Stonyhurst by his father or by a tutor, or by some other person. The defendant says he was accompanied by Mr. Brindle, a priest at Poole. Here is what he says in his cross-examination: 'I went to Stonyhurst with Father Brindle. My father remained at Upton. I do not think there is any doubt about that. To the best of my belief I did not go to Stonyhurst College with Sir James Tichborne. I have stated to the best of my belief. I am on my oath, and need not repeat I swear it. I am absolutely certain.' Now, there can be no doubt whatever that it was his father who brought Roger to Stonyhurst. We know that from three or four sources. First, there is the letter of Mr. Seymour to Mrs. Hopkinson, dated June 30, 1845, in which he says, 'Mr. James Tichborne and Roger went to Stonyhurst this morning, both in very good spirits.' The letter was read to him, but he sticks to his first statement. He is asked whose handwriting it is in, and he replied:

'It is Henry Seymour's—Henry Danby Seymour's; that is my belief. Would it surprise you to find it is not Henry Danby Seymour's, but your grandfather's?—No. Would it surprise you to find the letter says that "Mr. James Tichborne and Roger went this morning to Stonyhurst?"—That does not imply he went all the way with me.'

And that is true enough. The examination goes on:

"My father remained at Upton," is what you said. Would it surprise you to find written "Mr. James Tichborne and Roger went this morning to Stonyhurst?"—I am certain my father remained at Upton, and Father Brindle went with me to Stonyhurst. I won't swear it. I am speaking from memory. I have not taken the trouble to post myself up in dates or anything else. I am certain Father Brindle went with me, so far as my memory serves me, and my father did not.'

There is not only Mr. Seymour's letter, but Mrs. Bouverie's diary, which records the fact of Mr. Tichborne's return after he had left his son Roger at Stonyhurst 'happy and well,' and there is further the evidence of his mother's kinsman, De Brimont, who was sent for on Roger's arrival at the college, and of Mr. Waterton, and Father Mann, who all tell us that Mr. James Tichborne brought Roger.

The defendant is next asked to whom he was first introduced, and he said the rector, to whom he gave the name of Father Venables, but afterwards he corrected that statement, and said it was Father Walsley; but that was wrong, as at that time Father Walsley was not rector, but Father Barrow, as we learnt from the evidence of M. de Brimont. Father Walsley was not rector until two years after that time. However, that may be a mere mistake of the memory.

Then we come to the introduction of Roger Tichborne to Stonyhurst life. When this was put to the defendant, he said he did not remember it, and he had no recollection of De Brimont, his own relative, being there at the time. According to the regulations in force at Stonyhurst it seems that if a father came with a pupil it was usual for the rector to go round the institution with him to show the place. Roger was taken all over the institution. He mentions in one of his letters that it was by the superior; if by that he meant the rector, he was mistaken; but probably when he wrote to his mother he did not know one officer from another. The defendant was asked, and said he had no recollection of being brought round at all. The name of Waterton was pointedly put before the defendant, but he did not recollect either the nephew or the uncle. So much for his introduction at Stonyhurst.

I will now call attention to things which would be likely to remain in the memory of a man in after-life. In the first place, I apprehend that a person would recollect the class he belonged to, and probably something about the number of the class, and the general habits of his class-fellows. The defendant is quite right in saying he was placed in the class of Philosophers; but to account for his statement that he was placed at a cottage, instead of in the class at once, his learned counsel had to try to make out at first that it was for the purpose of preparation for the class of Philosophers. The evidence, however, establishes beyond doubt that he was admitted to that class in the first instance. He says there were two classes at Stonyhurst—one the Philosophers and the other the Laity. On being asked whether there were not more than two classes or divisions, he said he did not recollect. To the class of Philosophers he

said he belonged himself, adding this extraordinary statement—'the Laity were studying for the Church.' 'The Laity were studying for the Church,' asked the Solicitor-General; and the reply was, 'They were.' 'The Laity?' said Lord Chief Justice Bovill. 'Yes; the Laity and the students were one and the same thing.' 'And they were preparing for Holy Orders?' 'The most part of them,' replied the defendant. Then he is pressed again as to the number of classes at Stonyhurst, and he could not tell of more than two. He was cross-examined by the Solicitor-General on this point:

'You were asked if there were different sets of scholars—were there two classes of scholars?—Yes, there were two sets of scholars, and only two. The name of one was the Philosophers. Were the other the Laity?—I don't know. I understood the Laity were studying for the Church?—I mean by the Laity and the students that they were the same. The most part were young men studying for Holy Orders. There were two classes—the Philosophers, to whom I belonged, and the laity preparing for the Church. Were there any other classes?—I don't recollect whether there was or not. I can't remember the names of the divisions. Can you tell me what were the divisions of the school—were there different classes and forms?—I don't recollect. Were they all in one class?—I don't speak of a class. Were they divided into classes?—Of course, they were in different classes. What were the names of the forms?—I know what you mean, but I have not sufficient language to explain myself. A Harrow boy or an Eton boy would remember the forms.—I don't recollect. Can you give me the name of one class—one division?—I don't remember one. Have you forgotten, or did you never know?—Of course I knew. So I should suppose. Have you really forgotten the name of every class?—Yes; that is what I mean to say.'

Now we know, in point of fact, that there were seven classes; and, if Mr. Store Smith speaks correctly when he says he used to talk with Sir Roger Tichborne at Cahir about Stonyhurst, Roger Tichborne at that time not only well knew who were the Philosophers, but could also tell all about the classes. I should not, however, be struck with the fact that after many years a man should have forgotten this. It is quite possible he might do so; but the difficulty in this part of the case is to account for how Sir Roger could have fallen into the error of calling the Philosophers the Laity. We know that the greater part of the students at Stonyhurst were not intended for the Church, and I should have thought that the word laity would have carried to his mind the exactly opposite meaning. Then comes the question whether a man would totally forget the number of the class he was in; that is, the proportion it bore to the entire number of students. You might not recollect the exact number, but you would not mistake 10 or 12, or 20, for four times that number. The defendant, in his examination before Mr. Roupell, was asked:

'What was the number of students at the time you were there?—I can't say. I don't know. I know how many there were in my class, but I could not speak to one or two. It might have been 150. I don't know.'

Now we know that the number of the Philosophers' class in which he was never exceeded 20, and scarcely ever was over 14. He was asked how many Philosophers were there and he said,

'I think there were some 80 or 90. Was that

in addition to the number you formerly gave?—That number includes everything. Do you mean that there were 80 or 90 Philosophers in all during the whole time you were at Stonyhurst?—When I was speaking I meant that there were generally that number there. Will you swear that during the whole of the three years you say you were at Stonyhurst there were more than 48 Philosophers in all?—If you have got it on record do you think I am going to swear it? Will you swear that there were more than 48 in all?—No, I won't. I will not swear anything about it. Will you swear that there were more than 28 Philosophers in all?—There were more than that.'

Now it seems difficult to suppose that a man who was in a distinct class—separated from the rest of the establishment—which never numbered more than 14 or 15, should afterwards say that the number was 80 or 90 instead. It would make a vast difference to him whether he was in daily association with 80 or 90 men, or with 15 or 20. The Solicitor-General again and again presses him on the subject, but he still adheres to his statement.

Another point which we should naturally suppose would remain in a man's memory in after-time is the residence. If you were to ask a Cambridge or Oxford man whether he lived in college or out, he would be able to tell you at once; and if he lived in college, he could tell you where his rooms were; if out, in what street were his lodgings. Would he not recollect in what part of the college his sleeping room was—in what court or quadrangle—on what side of the court or quadrangle? Why, if he were put blindfolded into the court or quadrangle, would you not expect him almost to find his way to the rooms he had formerly occupied at college? He is cross-examined upon the subject, and he says that for the first 15 or 18 months he resided not in the college or seminary, but in a cottage. It was, he says, the second cottage of the two that stood at the end of the college building.

'Were they within the walls,' he is asked; and he replied, 'Yes. Are the gates of the college beyond them?—You are trying,' he said, 'to puzzle and confuse me. What is it you want to know? Are the cottages within the walls of the college?—I tell you they adjoin the college. Lord Chief Justice Bovill.—Are they in the college grounds?—They are. The Solicitor-General.—Who resided in the cottage besides yourself?—The lay brothers and sometimes one of the farmers. Did any other young gentlemen from the college?—I do not remember. I think not. I am not quite certain. Where did you go then?—Where did I go when? When you left the cottage?—I went into the college. Whereabouts were your rooms?—They were in the left wing at the back of the quadrangle—over on the Philosophers' side.'

. Then follows an examination as to what a quadrangle is:

'Is there more than one quadrangle?—What do you mean by a quadrangle—I meant a staircase on that side of the house. Do you mean to say you do not know the meaning of a quadrangle?—I mean to say that I am explaining to you where it was, and you won't understand it. Do you really mean to say you do not know what a quadrangle means? You, a Stonyhurst man, can't tell me what is a quadrangle?—It is a part of the building, of course. So is a doopost. You were at Stonyhurst three years; surely you know what a quadrangle is?—I am not going to answer you such an impudent question. The Chief Justice—

But you asked the Solicitor-General what a quadrangle was first.—No, my lord; the Solicitor-General mentioned it first. The question is whether you know what a quadrangle is.—It is that part that goes round. What do you say about round? Can you tell me what you mean by a quadrangle?—No, I do not. I do not know what you mean by it. Will you tell me what you mean by it?—I have already answered the question. What do you mean by a quadrangle?—I have told you that I mean a part of the building that was on the left wing. What sort of a thing was a quadrangle?—What do you mean? It is really shameful for you to go on in this way. I have told you before that it was part of the building. What sort of a thing was it? What is it made of?—I decline to answer your question.

And so they come to no conclusion. Then the Solicitor-General asks him a question which is of no small importance:

'Did you ever go to the seminary at Stonyhurst?—To what? To the seminary?—Do you mean the cemetery?—No, the seminary. Do you mean the separate buildings away from the college?—I don't know the place myself; but do you know the seminary?—I do not remember a place of that name. And as far as you know you never went there?—No. Was there any other place where you lived at Stonyhurst besides the college and this indescribable quadrangle?—I think not.'

Now, gentlemen, let us pause for a moment and recollect where the philosophers did live. We know that Roger Tichborne went to Stonyhurst on the 1st of July 1845. At that time, as the evidence shows, the philosophers were lodged in the college itself, in a particular part over the class, fencing, and music rooms. Before their return from the August vacation the authorities had resolved to shift the quarters of the philosophers. There is a detached building within the grounds of the college called the seminary, which is a considerable edifice, but containing only two storeys. In the lower storey were the assembly rooms of the philosophers, the library, the dining-room, and offices connected with the establishment, and the upper storey was divided into 32 rooms, each philosopher having his own room. To that building the philosophers were transferred, the divinity students, who had occupied it before, being removed into the quarters which the philosophers had occupied before in the college. From the beginning of October 1845, until October 1848, at which time Roger Tichborne left, the philosophers continued to occupy the seminary; but in October 1848, as the entries in the college books show, and after Roger left, the philosophers went back to the college and the divinity students went back to the seminary. Therefore, with the exception of the first month, throughout the whole time Roger was there, the philosophers resided in the seminary. When the philosophers went there it was proposed by the authorities to change the name to St. Mary's Hall, and that was done so far as the books and official documents are concerned, but in common parlance the old name of the seminary, as was natural, continued to attach to it. One is therefore surprised to find that Roger Tichborne—assuming the defendant to be Roger—could so entirely have forgotten the name of the seminary as the place where he lived; and that when that name was suggested to him he should have asked, *'Do you mean the cemetery?'* However, so it is. Well, the next point to consider is the possi-

bility of Roger Tichborne having lived in a cottage at Stonyhurst at all. A great deal of time was consumed in trying to ascertain where this cottage was, and evidence was brought before you for the purpose of showing that on the site to which the defendant had pointed there were only two—one occupied by the gardener, and the other used by the miller. Then the learned counsel for the defendant would have it for some time that there must have been some other cottages; and when the ground plans were brought from Stonyhurst he contended that there were more. That, however, was abandoned after a time, but then he said there was a cottage on the other side of the college. It turned out to be a cottage occupied by the music-master, and that had to be given up. Next the learned counsel said it must have been one of the cottages at the back of the seminary, and we had a great deal of cross-examination as to whether these were such places as a philosopher might have lived in. Now, these young men paid 100l. a year each, and were, of course, entitled to decent accommodation, speaking relatively, and it appeared that the cottages in question were labourers' cottages. Besides that, there was this additional difficulty: It was agreed on all hands that it would have been inconsistent with the discipline of the college that a young lad of 16 or 17 should not be within the walls of the college at night, and to meet all these difficulties it was argued that the defendant had mistaken the seminary for a cottage, as it was comparatively insignificant when looked at by the side of this magnificent academic building. Well, when we have a building which will accommodate 32 people on one floor, and which has such large rooms on the lower floor, it strikes one as odd that it should occur to anybody to call it a cottage.

At last I thought the cottage theory was given up; but at the end of the case came a young woman who was 13 years of age at the time Roger went away, but who said she remembered him very well, and among other things she told us of a cottage we had not heard of before. It was on the other side of the college garden, and occupied by a woman who made confectionery for the establishment. Mrs. Coates told us that when she went to buy confectionery, which she used to sell again, she had seen Roger at this cottage, and she took it into her head that he was stopping at that time at the cottage. On that assumption the learned counsel asked you to believe that for 15 or 18 months Roger Tichborne was living in the cottage. The question is why Roger Tichborne should be thus segregated from the rest of the philosophers. The authorities say that such a thing would be wholly inconsistent with their rules, and that it would only be possible if a boy were taken with some infectious disease, which would render his immediate removal necessary. But no case of the kind was ever known there. There is not a case recorded of removal from the seminary to the cottage in consequence of a disorder.

Again, this account places Roger in the cottage at the very commencement of residence. But the learned counsel for the defendant says that Roger was a man of loose habits, that he had been staying in town before he went down, that he contracted some contagious disease, and that when Roger went to Stonyhurst this was known. One would have supposed that in that case his father would have kept him in town; or that if the father did not know of it, and brought him to the college, the authorities there, when they became

aware of the fact, would, instead of placing him in a cottage, have sent him home. 'But,' said the learned counsel, 'no, the Fathers had compassion on his youth, and treated his frailty with indulgence, especially as he was connected with the Arundells, a powerful Roman Catholic family, and so they determined to pass it over, and sent the lad to live at the cottage until he got well, and his residence there lasted from 15 to 18 months.' He certainly was well enough to go home for the first vacation, and I should have thought he would have remained there until he was cured. But no; he returns and again takes up his residence at the cottage. What foundation is there for all this? If there were foundation in the evidence I should most gladly lay it before you; but I have been unable to find any. It is one of the most gratuitous assumptions I ever heard of. The defendant assigned as a cause of his leaving Stonyhurst that he had contracted a complaint and was turned away in consequence, but he never said or suggested that there was anything the matter with him when he went there. So far as I can see, it is the purest fabrication and invention on the part of the learned counsel that can possibly be conceived. Except his suggestion, there is not a shadow of foundation for it; and, more than that, the Stonyhurst witnesses tell us that, with the exception of the first month, Roger Tichborne always resided at the seminary, and the whole body of them, including the Infirmary, are allowed to leave the witness-box without a question being asked them on cross-examination with reference to this complaint, which, if it had existed, they must have known of. I cannot help thinking that it was a gratuitous piece of invention.

There is a strong body of evidence to show that Roger never lived at a cottage, and that he did live at the seminary. But even supposing you do adopt this wild and extravagant theory as to the 15 or 18 months' disorder, of which nobody ever heard, and of which not a tittle of evidence was advanced, the difficulty remains that the defendant stated that when he left the cottage he went to live at the college, upon one side of the quadrangle, which, strange to say, he describes as opposite to the place where the philosophers really did live while in the college. But the philosophers never did live in the college during the time that Roger Tichborne was at Stonyhurst, save during the first month; and, if he went to live in the cottage, he must have afterwards returned to the seminary. And yet, when the defendant is asked if he ever lived in the seminary, he does not even remember the name, but thinks it is the cemetery that is alluded to. Upon these facts, which I cannot alter, you must form your opinion whether such knowledge as has been displayed by the defendant is consistent with the knowledge Roger Tichborne must have had during his residence at Stonyhurst. So that it stands thus—there was no cottage except the confectionery cottage in which a philosopher could have lived; and it would have been wholly inconsistent with the discipline of Stonyhurst that a young man should live at other than the proper quarters assigned to the philosophers without there existed some powerful cause for a departure from the usual discipline, and no such cause is shown to have existed. If you cannot believe either that the defendant lived in the college or in the cottage, then the further question is whether you think Roger Tichborne could have fallen into so strange a confusion as the defendant has done.

Now, another thing connected with his resi-

dence at Stonyhurst relates to the body of the philosophers at large. We know from the evidence that each philosopher had his separate room, which was at once his bed and sitting room when he was disposed to be alone or to study. There was a common room down-stairs, but each man had his own separate room, and, so far as the evidence goes, in no instance did two philosophers ever occupy the same room. In his cross-examination the defendant is asked:

'How many gentlemen were there in your time?—170 or 180—from 150 to 180, more or less. There were 80 to 90 of them philosophers. The philosophers lived in a separate part of the building, over to the right of the college in a similar part to me. You were a philosopher; did you live separate from them—you lived to the left?—There you are trying to catch me again. They lived separate from me. I lived in a quadrangle to the left and the philosophers in a quadrangle to the right, to the best of my memory; I won't swear it. I will pledge my oath that such is my memory. Do you distrust your memory?—It is not always to be relied on, I think. I will pledge myself that the class to which I belonged lived as I have said. I will not swear it. To the right of the building?—I never said to the right. Now, I ask you again, will you swear that the philosophers lived in the college buildings—you to the left and they to the right?—No, I never implied that at all. Where did the philosophers live?—To the left side of the building. Did the philosophers live in dormitories?—Yes. Did they sleep more than one together?—Yes. The dormitories were on a different floor. The philosophers had sitting rooms; not all. I had a separate sitting-room to myself and a sleeping-room. The 80 or 90 philosophers had not, I think, separate rooms as a general rule. They generally sat in a body. There was one sitting-room on the first floor. A great many sat there—17 or 18 or 20 together. The majority had not separate sleeping-rooms. From 12 to 20 slept together. I have no doubt about it.'

We know that the outside number of the body of the philosophers did not exceed from 18 to 20 while Roger Tichborne was there, and yet the defendant says that number slept in one room. Now, what I cannot help supposing is this—that the defendant in these statements has confounded the students with the philosophers, and that either from the recollection of Roger Tichborne, or from some information which he has derived, he has learnt that the number of students being between 150 and 180, and thought that those students had dormitories, as is the case sometimes in large institutions of this sort, and that in those dormitories a considerable number of students slept. He has lost sight of the fact that the philosophers had separate rooms to themselves, and that the whole number of the philosophers did not exceed the number that he was putting into a single dormitory. That is a serious matter certainly, and it is for you to say whether you think these mistakes arise from defective memory or from want of original knowledge.

The next thing one would probably expect a young man to remember is the localities connected with the institution. We had a pictorial representation of Stonyhurst before us. He was asked what sort of building it was—a large building. When asked as to what detached buildings there were he makes no mention of the seminary, but speaks only of the church. Then he is asked as to the playground, which a young man of 17

18 who took daily recreation in it would not be likely to forget. The place where the natural activity of youth found itself scope, where cricket and football were played, would, one would think, remain upon the memory. Some of the associations connected with the playground are very pleasant to recall. The Attorney-General asks the defendant:

'Are there any playgrounds?—Yes. What kind are they?—There is the lawn and ground in front. Is that a playground?—No. I am asking you about the playgrounds. What kind are they?—There is a large extent of ground at the back. What name has it?—I don't remember any name for it.'

The Attorney-General, with no doubt some pleasant recollection floating about his mind, said, 'There are the School Fields at Eton and the Play Fields at Winchester; had these grounds any name?' and he replied, 'No.' So far he was not wrong, but he was wrong in the locality. The playgrounds were not at the back of the college—they were at the side; and he was also wrong in stating, as he did, that they extended down to the Ribble, as some fields intervened between the playgrounds and the river. Then he is asked if there were any branch establishments immediately connected with Stonyhurst which supplied it with pupils from time to time, and he said he did not remember that there were any. He is asked, 'Where is Hurst-green?' and he said he did not remember. Now, we know that subsequently the defendant told the music master who was examined that he knew Hurst-green well, and mentioned old Betty, who used to live there. Then he is asked, 'Where is the Hodder?' and he did not know. We know that it is an establishment where boys too young to be admitted into the classes of the college are prepared for admission, and where novices remain for two years before they are admitted to Holy Orders. The defendant is asked:

'Where is Hodder?—It is an establishment on the banks of the Hodder, where they go to retreat. There is a building there where the Fathers go to retreat, and it is about a quarter of a mile from Stonyhurst. When did they go into retreat?—I have no recollection. You don't know for certain?—I don't know for certain. I have that impression. Did you ever hear that that was where they went?—I must have heard it. How long does the retreat last?—I can't tell you. Is it somewhere between a week and a month?—That is about it. What was done at Hodder during the other eleven months of the year?—I don't know. Should you be surprised to find,' said the Attorney-General with his usual formula, 'that Hodder was a place which was filled with a class called novices, who were there for two years?—No; it does not surprise me in the least.'

So much for the branch establishments, and now I come to the still more important topic of the studies. It is not likely that a young man of 16 to 20 would forget the course of studies he pursued. On this subject the defendant's recollection is probed during his cross-examination:

'Did you attend lectures?—I believe so. Where?—In the lecture-hall. Whereabouts was the lecture-hall?—It was in the centre of the college. Did you go to the lectures in the lecture-hall, or did the lecturers come to you in the cottage?—Of course I went to the hall. They did not come to me—asking me such an insulting question. You know you might have had private lectures—had you any?—I don't recollect. Did

your tutors ever come to your place to teach you in your own room?—Yes, at spare times, to read to me; not in the regular college hours. Did your tutors come to you to give you lectures, or did you attend them at the lecture-hall?—Now you seek to put lectures in a different light to what I said. The lectures were given in the lecture-hall. Were private lessons ever given you in your rooms?—Yes, at the first onset—yes. Who taught you at the "first onset" as you say?—Father Seed and Father Hetheridge. They both of them did. What did Father Seed teach you?—The rudiments of the English language; we will say the English language. What else?—English spelling and English grammar, and arithmetic. What sort of arithmetic had you learnt in France?—Very little indeed; nothing more than division and subtraction, and so on. What system had you learnt?—I am not aware what system. They taught the same sort of system at Stonyhurst as I had learnt in France. I cannot remember what else I learnt—ancient history, and I believe I read modern history. What history—some one book?—There are so many different books. I ask for one—just a little book. Cannot you help me to one book?—I cannot recollect just at the moment. Mrs. Markham or Mangnall, or what?—I cannot remember. What history?—The history of the different nations of the Old World. The whole world—France and Spain, Australia, different nations, and so on?—I don't think I mentioned that; you don't call Australia a nation. What history did you read—modern history?—I cannot tell. You say you went through the ordinary course, and Father Seed and Father Hetheridge instructed you. What was the course as you pursued it?—I don't understand what you mean. What was your college course?—You mean during the whole time? Lectures in Hebrew, Latin, and Greek. I am afraid I can't test you in Hebrew. Can you read Hebrew?—Not a word. Is there any difference—physical difference—in the reading of Hebrew? Did you learn the Hebrew alphabet?—I do not recollect whether I learnt the Hebrew alphabet or not. Did you ever read a phrase of Hebrew?—I don't know; I studied it for some time. What is the first letter of the Hebrew alphabet?—I don't know.'

Now, I can well understand those who have learnt the elements of Hebrew forgetting all about them; but even those who have not done so must surely know that Hebrew is read from right to left, and not as other languages are from left to right. The defendant says he studied Hebrew for some time, and yet he forgets all about that striking fact which is known to many who could not tell one Hebrew letter from another. The cross-examination goes on:

'Which way is Hebrew read?—I have no recollection of it. I don't remember that it is read from right to left, and not from left to right. What mathematics did you learn?—I don't remember. You learned Greek?—Some portion of it. Did you go as far as the Greek alphabet?—Probably I did; but I don't remember. Did you ever read a phrase of the New Testament in Greek?—Not a whole phrase, but I understood some of it. Could you read Greek at that time?—Yes, I think I could make out a sentence. Does any single Greek word linger in your memory?—Not a word. I don't think I ever thought of it. Did you get as far as the article? Could not you give me "and" in Greek?—No, I have lost it entirely. Did you get better on in Latin?—I believe I got further in Latin. Did you learn the

Latin alphabet?—Of course I did. Could you read Latin?—Yes. Could you read a line now?—No; I could not. Did you do any *Virgil*, any *Cæsar*?—I don't recollect. Do you know whether *Cæsar* is written in prose or verse?—I don't recollect. Is *Cæsar* Latin or Greek?—I should think it was Greek. What do you say to *Virgil*?—I have no recollection of *Virgil*. What is *Virgil*—a general, or statesman, or what?—I have no recollection. Was he a Greek or a Latin writer?—I don't recollect. Did he write verses or prose?—I don't recollect. Did you ever see it before (handing a book to the witness)?—I don't want to look at it at all. Did you ever see it before—what is it like? Is it Greek or Latin?—It looks to me like Greek.

Now one pauses here to consider this strange evidence. We know that Roger Tichborne was not a good scholar; but he read *Cæsar*, and passed a creditable examination in the first book of *Virgil*. Would he not have known, if he were reading *Virgil*, whether he had a Latin or a Greek book before him? Would he not have known—not being like Molière, who was very much surprised when he was told that he had been speaking prose all his life—would he not know whether he was reading prose or poetry? Would he have said, if asked whether *Cæsar* was a Latin writer or a Greek, 'I should think he was Greek'? Would he not have known the difference between Latin and Greek type? Would not a person who had once learned a little French and translated, say Fénelon's *Télémaque*, even if he could not now translate a single sentence, know the difference between French and German type? Then the defendant, if he be Roger Tichborne, had read *Cæsar*, and, at all events, the first book of *Virgil*, and said he knew sufficient Greek when at school to be able to make out a sentence. He must have been perfectly aware that *Virgil* was Latin, and not Greek, and of the wide distinction between the Latin and Greek characters, and yet when a *Virgil* is put into his hand, he says, 'It looks to me like Greek.'

Next he is asked about the *menstruum*, or monthly examination of the students. This examination was not applicable to the philosophers, and I don't think much can be made of it as a test, for it was not at this, but at a special examination that Roger translated some *Cæsar*.

Then the defendant is asked, 'Is *Virgil* Latin or Greek, is it prose or verse?' The answer is, 'I have no recollection.' The Attorney-General then says, 'Did you ever hear of *Virgil*? Who is he? A general, a statesman, or what?' To this the defendant replies, 'I told you just now I have no recollection. I never thought about it from that day to this, I am sure.' And he adds, 'I don't know whether he was a Greek or a Latin writer. I don't recollect whether he wrote verse or prose.' 'Just look at that book,' says the Attorney-General, handing the defendant a *Virgil*, 'and say whether you have ever seen it before.' The defendant answers, 'I do not know, I could not say that I ever saw it before.' The Lord Chief Justice asks, 'Is it Greek, Latin, or Hebrew?' 'It appears to me,' answers the defendant, 'to be Greek.' And then he adds, 'I told you before I could not tell Greek from Latin.' Well, gentlemen, I don't know whether Roger Tichborne ever read Greek, but I'm sure he knew who *Virgil* was and what he wrote, because we know that from the entry in the memorandum of books which he bought or intended to buy. But if the defendant ever learned Latin at all, I should have thought the very opening of the book and the

very first word that caught his eye would have at once told him it was in the Latin language, and that if ever he saw a Greek word in his life he would have known that it was not Greek.

The Attorney-General next takes the defendant to another branch of study—mathematics—and cross-examines him thus:

'You learned mathematics, you say?—Yes. What did you learn?—I have no recollection. Is it the same thing as chymistry?—My memory does not serve me. Chymistry is a science by itself. Then, what is mathematics?—I have no recollection. What book have you ever read in mathematics?—My memory does not serve me. What is it—written in Greek, or Latin, or what?—I don't recollect. Did you ever read *Euclid*? Has that anything to do with mathematics?—I don't recollect; I think not. Has algebra anything to do with mathematics?—I have no recollection. Have you read *Euclid*?—I believe I did, but don't recollect. Did you ever hear of the Asses' Bridge?—I don't recollect. Did you ever try to get over it?—I don't recollect it. Did you ever try to cross the Asses' Bridge?—I have no recollection of it. Did anybody try his best to help you over the Asses' Bridge? Did you make gallant efforts, as many of us have done, to get over it?—I have no recollection. Do you remember whereabouts it is—how far from Stonyhurst?—I will not put up with all your insolence. Do you know it better by its Latin name, "*Pons Asinorum*?"—No.'

Now let us consider for a moment what was Roger Tichborne's position with reference to that science. We know that one of the Fathers at Stonyhurst tells us that he took him through the first book of *Euclid* to the end; that was in the second year that Roger Tichborne was at Stonyhurst. After that the learned Father left, and whether Roger went on with mathematics during the last years he was at Stonyhurst we have no evidence to show. But if he had been studying *Euclid* there, and had got to the end of the first book, he would probably, for the year or two that he remained there afterwards, have gone on with his mathematical studies. This, at all events, we do know—that when Roger Tichborne had received the promise of his commission from the Horse Guards, being aware that mathematics would form one of the subjects of examination, he took to reading mathematics diligently. Mr. Gosford tells us Roger used to come and sit at one end of the desk in his office and work out his problems there; and if he thought the matter would have come to this, Mr. Gosford says he would have preserved the papers, and they would have shown how this young man worked at his mathematics. And not only did he work in this way, but he went to Mr. Moberley at Owalebury and read mathematics with him. Well, he was not examined in mathematics, in which probably he would have passed at once; but in arithmetic, and in that he failed. Upon this he went up to London, and got such certificates as induced the authorities at the Horse Guards to dispense with a second examination. He afterwards expected another examination, and he writes to say that if he had been examined in the six books of *Euclid* he believes he would have failed, which shows he knew perfectly well the number of books which the great geometrician wrote.

Now it is likely that if Roger Tichborne were asked to do a particular proposition—the Asses' Bridge for instance—he would have failed. So if Roger Tichborne had forgotten every prob-

in *Euclid*, is it likely he would also have forgotten what mathematics were about? He might have given a very vague and imperfect answer, he might have said it was about lines, and angles, and triangles, and quadrangles, but could he ever have failed to know what the thing was about? But that's not all, for the defendant forgot the very name of *Euclid*. Could Roger Tichborne have forgotten it, after all the hard work he had given to the subject? Moreover, Roger Tichborne's acquaintance with mathematics was not confined to *Euclid* merely. He was quite aware of the analytical department of mathematical science, because in his memorandum we find the names of some books of the highest class in analytical mathematics there enumerated among the works he intended to purchase. That shows he was acquainted with the outlines of mathematical science and knew what the range of it was. It is a question for you, gentlemen, whether this knowledge was likely to be so obliterated from the mind of Roger Tichborne that he should have forgotten it so completely. You may, perhaps, adopt the theory of the learned counsel—that his memory is gone; that is for you to consider, but I call your attention to the fact that Roger Tichborne certainly knew what mathematics were.

Then the defendant is asked what chymistry is about, to which he answers, 'It is about chymistry, of course.' On being pressed, he says, 'Chymistry is about different herbs and different poisons, and the mixture of medicines.' Well, gentlemen, I wish I had more time and opportunity for the study of a science which I think one of the noblest that man is acquainted with. But I ask you, could any one who ever knew anything about it make such an answer? 'Do you mean,' says the Attorney-General, 'that chymistry is about the things which are made up in the chymist's shop?' The defendant replies, 'Well, it is about the things that are there made up.' Then the Attorney-General says, 'Is it your opinion that chymistry deals with what is given and taken as physis?' The defendant's answer is, 'Most undoubtedly.' Then the defendant is asked about philosophy, natural or moral, but he has no recollection. He is next asked, 'Do you know what physiology is?' To this he says, 'You mean the different features.' When the question is repeated, he answers, 'Yes, it is the formation of the head.' 'O! that's phrenology,' says the Attorney-General. Then the defendant is asked, 'Do you know what metaphysics are?' The answer is, 'I don't know what you are alluding to. I told you just now I don't recollect what it means.' Well, I don't believe Roger Tichborne did attend lectures on metaphysics, and, therefore, I am not altogether surprised that the defendant, whether Roger Tichborne or not, was not prepared to answer what metaphysics were. I remember the Attorney-General makes much the same observation. I recollect also that he then gave a definition of metaphysics, but not as his own. He said metaphysics were defined to consist in one fellow talking what he did not understand to another fellow who did not understand him. And certainly some of the metaphysics we have heard in the course of this case did seem to me to savour very much of that.

So much for the studies, but connected with the studies were some letters, and to this point the defendant's attention was called. It seems to have been the habit at Stonyhurst to prefix certain letters to all the exercises and to every book and to append certain others. The letters

prefixed were A.M.D.G., and the defendant is asked what those letters mean. He says he cannot remember. He is pressed whether they were not prefixed to every exercise and every book, and whether they were not to be seen in every room. His answer is, 'I cannot say; I have not given it a thought what they mean.' 'Do you mean to say,' asks the Attorney-General, 'that you, a Stonyhurst boy, do not remember what A.M.D.G. means?' 'I mean to say,' is the answer, 'that it does not flash across my mind. I do not believe they are printed on every book.' 'Well,' says the Attorney-General, 'does not A.M.D.G. mean *Ad majorem Dei gloriam*?' The defendant answers, 'Yes, there is no doubt of it.' 'What does that mean?' asks the Attorney-General. 'You, a Stonyhurst boy, must surely know.' Then the defendant, knowing that in Spanish *Dios* means God and *gloria* glory, says that *Deus* means God and *gloria* glory; but the meaning of *ad* and *majorem* he does not remember. The words mean 'To the greater glory of God.' There, again, though a man might have forgotten his Latin and not have been able to construe a single passage, if he was in the habit of prefixing to all his exercises and to everything written and done at Stonyhurst those four letters, he might have forgotten possibly what the letters stood for, but when they were brought back to his mind would he have forgotten, do you think, the meaning of the whole thing taken together? [Roger Tichborne must have known what they stood for and their meaning. Is it a matter he would have been likely to forget?]

Then we come to three letters always appended at the bottom as the others were placed at the top. They are 'L.D.S.' The Attorney-General asks the defendant what they stand for, and he says he forgets now. Being asked whether he ever knew, he replies, 'Most undoubtedly.' Then he is asked do they stand for *Laus Deo semper*, and what does that mean? Here again are two words, *Deo* and *semper*, which have corresponding words in Spanish, *Dios* and *sempre*; but the other, *laus*, has not, so when the defendant is pressed to say what *Laus Deo semper* means, he says, 'The laws of God for ever.' It is for you to judge, gentlemen, whether that would be likely to be the extent of Roger Tichborne's knowledge, but it is the extent of the knowledge displayed by the defendant as the result of the studies pursued at Stonyhurst.

I think the test applied is a fair and legitimate one in order to see whether there remained any trace of the studies through which Roger passed. If the test applied had been such as the counsel for the defendant seemed to imply in his cross-examination of the Stonyhurst witnesses, it would have been an unfair and improper test. If the defendant had had the *Commentaries* of Cæsar put into his hand, and had been asked to construe a passage, not having opened the work for years, it would have been an unfair test. If the Greek Testament had been put into his hand, and he had been asked to read it or a word of it, the test would not have been fair. It was not a fair test that was applied to the Stonyhurst witnesses by the learned counsel for the defendant, in all the consciousness of great learning, which he undoubtedly possesses, in order to expose their want of knowledge of matters in which they had been instructed at Stonyhurst. There is no analogy in the cases. Of those who learn Latin and Greek at school, I fear the greater number, amid business and pursuits of life, neglect those languages. The more the pity, I think; for those who know what

literature is as a recreation and source of refreshment to the mind when you are worn with toil will know that you find, as it were, new life and vigour in turning to the great works of great authors. And no one who knows what a source of satisfaction and delight it is to turn to the glorious works of the human intellect in whatever language they may have been written ought to neglect to keep alive whatever learning he may once have acquired; but we know that amid the active pursuits of life men do neglect to do so, and therefore the test which the learned counsel for the defendant applied was most unfair. But that test was not applied to the defendant. He was not asked to construe a passage in Latin or Greek or to do a problem in mathematics; he was not asked whether he knew the laws of chymistry or the laws which govern the physical world, but it was simply said, 'You attended lectures on these subjects; do you know what they are?' You, gentlemen, will have to ask yourselves whether a man who attended a course of lectures, however imperfectly, would have so thoroughly forgotten the whole subject that it would have been so completely wiped out from his memory as to leave behind no trace at all.

Now I pass to the recollection of the defendant with respect to Roger Tichborne's contemporaries at Stonyhurst. We find in the evidence brought before us that there were a great many in the same class with the defendant among 'the philosophers' whose names have been recorded. In the first place there were Vicomte de Brimont, three Berkeleys, two Knights, Mampother (an Irishman), Segar, two Deasys, Kennedy, Plunkett (an Irishman), Mannock, and others. Then among the scholars were his cousins, the present Lord Arundell and Everard Arundell, with whom Roger Tichborne used to walk on Sunday mornings. One would suppose that the defendant would recollect some of those, and his knowledge is tested with regard to them in his examination before Mr. Roupell. He does not remember any particular person who was in his class, but he says, 'O, of course I remember the names of some of the students.' Then he is asked the names of some of the students, and he says, 'I don't remember.' Serjeant Ballantine does not like that, so he says, 'Pray, try and remember.' Then the defendant says, 'I remember Petre or Arundell. They were in the College.' 'Do you remember whether it is the present Lord Petre or Lord Arundell, or not?' His answer is, 'No, I don't. I have had no opportunity of seeing them since I was in England. I have been too busy.' The present Lord Petre became Lord Petre before Roger Tichborne went abroad, and I presume if he had been at Stonyhurst, as he belongs to one of the old noble Roman Catholic families of this country, Roger Tichborne, being a Roman Catholic himself, would have been aware of his accession to the title.

But the unfortunate part of the matter is that Lord Petre never was there, while Roger Tichborne was there, nor anybody named Petre. The defendant speaks of Arundell in the singular, but Roger Tichborne knew there were two—the present Lord Arundell and Everard, who afterwards became a priest. Would Roger Tichborne have forgotten that fact? He knew that Everard Arundell had become a Jesuit priest, because in one of his letters written home from South America, thinking that his directions would be sufficient for the purpose, he desires that the name of Everard Arundell should be struck out

of his will. The defendant gives the name of Clough, which was that of a priest at Stonyhurst at the time; but strangely enough he pronounces it 'Clo.' As if to account for the defendant calling it Clo, some of the Stonyhurst witnesses were asked by the learned counsel for the defence whether the boys were not in the habit of calling this gentleman 'Old Clo,' but they all repudiated such a thing. In his cross-examination, the defendant's attention is directed to the evidence he gave before Mr. Roupell, and he is asked which of the Arundells he means, and he says Everard. But Roger Tichborne must have known that both John and Everard Arundell were there. When asked whether there was a person named Petre at Stonyhurst, he says that to the best of his belief there was. That he swears. Another witness declares there was not, and we can find no trace of him.

The defendant mentioned only one Mr. Berkeley. He says, 'I don't know the Christian name of Mr. Berkeley.' But there were three Berkeleys at Stonyhurst at the time, one of whom died in 1847, and that is one of the things the defendant would have been expected to remember. He is asked about Humphrey, who was an attendant upon the Philosophers. He says he does not remember; the name is familiar, but he thinks it was when he left Stonyhurst that the name became familiar. Then he is asked, 'Do you recollect a person named Humphrey, who was sometimes called Arundell, a servant there?' His answer is, 'No, I don't recollect.' The name of Waterton is put to him; the Rev. Father Waterton having been Prefect of the Philosophers when Roger Tichborne joined. But he does not remember, though the name is brought to his notice in that of Mr. Waterton, who used to be called 'Long Tom.'

And here we come to another head under which it is fair to test the memory of the defendant, and that is as to the masters. Though where there is a rapid succession of masters you will forget names, still some of them will linger in the memory. No one can carry back his memory without remembering, not only the persons, but the names of the masters by whom he was educated. At the preliminary examination the defendant is asked under whose care he was, and he says he is not aware he was under any particular person's care. He does not remember the name of the Principal or of the Latin master. But upon the re-examination he says, 'I don't recollect the names of the priests. I remembered them the other day, but at present I cannot.' 'Then,' says Serjeant Ballantine, 'I will give you an opportunity of doing so to-morrow.' That was very suggestive, especially if the learned Serjeant had known that the defendant's advisers had got a list of the Fathers at Stonyhurst. It suggests this,—'I will ask the question to-morrow, take care how you answer it.' I don't say that was the intention of the intimation, but it was very likely to have that effect.

The defendant remembers two brothers named Cooper, but whether scholars or priests he could not say. In the examination-in-chief he gives the names of Fathers Walmsley, Seed, Mann, but there is no mention of Etheridge or Clough. He thinks there was no Seminary Superior, and no head master of 'the Philosophers.' He was asked whether a gentleman named Norris was not the Superior, and he says, 'No. It was Father Walmsley.' The question asked was, not was

rate, because it could not be answered by 'Yes' or 'No.' Father Norris was Superior within a month of the time that Roger Tichborne went there. Father Walmsley was not there at the time. The person who was Superior when Roger Tichborne went to Stonyhurst was Father Barrow. Father Norris was made Rector in 1845, and in 1846 Father Walmsley succeeded. He says he knew Mr. Bird, but does not know what he did. He was asked about a person named Pater, whether he was a boy or a man, and he cannot say. Then the Solicitor-General, employing the usual form, says,—"Would you be surprised to hear that Bird was one of the persons whose lectures Roger attended, and that Pater was another, the latter having taught him English and Latin?" The defendant says he won't swear that Father Clough was living at Stonyhurst when he went there, but he thinks he was. In that the defendant is right, for Father Clough did reside at Stonyhurst during that portion of 1845 that Roger Tichborne was there; he then left and did not come back until Roger was gone, when he returned and became Rector.

Then the defendant states that some of the tutors used to come and teach him in his own private room in the cottage. Father Seed and Father Etheridge used. He is quite certain about Father Seed, and he believes Father Etheridge. 'Father Seed,' he says, 'taught me the rudiments of the English language, spelling, grammar, and arithmetic. Up to the time I went to Stonyhurst I hardly knew any arithmetic at all, except division and subtraction. I am not aware there are two systems for learning arithmetic.' Now, you recollect the argument of the learned counsel that because certain sums in a book were done by the foreign system that identified the defendant with Roger Tichborne. But the arithmetic of Stonyhurst is an English arithmetic, and one cannot see how the French arithmetic, which the defendant says he never had, could have been used for teaching him there. Being asked whether Father Seed was not the whole time Roger Tichborne was at Stonyhurst Professor of Greek, he says he cannot recollect. Then the cross-examination proceeds thus:

'Upon your oath, did Father Seed teach you a single syllable of a single thing? Was he not the whole time that you were at Stonyhurst Professor of Greek?—No, I do not think he was all the time. Will you swear to one single fragment of a single subject that Father Seed ever taught you?—He did teach me; but I do not recollect what it was. What sort of a man was he—tall, or dark, or light?—He was a light man. He was older than me ten years. Will you swear he ever taught you anything?—Yes, I will. I don't remember what.'

We have the Rev. Maurice Mann, Professor of Latin and Greek, who says that finding Roger Tichborne could not speak English enough, and he himself could not speak French enough, Roger was handed over to Pater to teach him Latin, and so Pater remained tutor to Roger both in Latin and English all the time. Father Bird says Roger Tichborne attended a course of lectures in chymistry, and that he remembers him perfectly well. Father Etheridge gave him religious instruction, but never any lessons as a student for educational purposes. Father Etheridge was from 1845 to 1846 Professor of Logic and Moral Philosophy, and it is certainly very unlikely that Roger Tichborne, who at that time could not speak English, would have been sent to attend those lec-

tures. He says that neither he nor Father Seed ever went to a cottage to teach Roger Tichborne. Then as for Father Seed teaching Roger Tichborne, I cannot find a trace of his teaching anything until 1847 or 1848, when he became Prefect of the Philosophers. The defendant has not any knowledge of a Prefect of Philosophers, but it appears from the College books that such an officer was appointed annually. It is also quite clear that there was a Superior of the Seminary, but that officer does not appear to have been known to the defendant. As to the teachers, Pater, who taught him Latin, is unknown to him; Mann, who taught him arithmetic, is unknown to him. Bird gave lectures on chymistry and he is unknown to the defendant. Seed is said to have given him instruction. But Seed is not called, and, as far as I can make out from the books, Seed never taught anything until he was Prefect of Philosophers.

The next subject connected with College you would expect a man to have some recollection of in after years is that which always interests the schoolboy or student, and that is the time of vacation. We know from the evidence of the Stonyhurst witnesses that there was one long vacation which commenced for the Philosophers on the 1st of August and terminated on the 1st of October, while for the students it began some day in the first week of August and lasted six weeks. There were two other vacations, but not vacations in the ordinary sense, because the pupils did not leave the place, but amused themselves by getting up plays and such matters within the institution itself. Upon this matter the defendant was subjected to cross-examination by the Attorney-General:

'What were the vacations?—There were three vacations, if I remember right. When were they?—One about March, I think; the second at Midsummer; and the third towards the latter part of the year. The philosophers stayed away for the vacations. I don't know what the students did. Do you mean to say that you don't remember that the boys at Stonyhurst kept these vacations?—I believe some of them did and some did not. I have no distinct recollection of what did occur. I have told you what I did myself, and I cannot answer for others; I don't suppose there was much difference. I've told you all I know. I don't know what classes they kept, or what vacations the students had at all. Do you mean to say the students, as a rule, kept three vacations in a year?—I believe some of them did; I don't know. Did you live so separately from the students that you don't know?—I don't say that; I simply say I don't remember. I dare say I must have known. I have no remembrance whether the majority went and came as I did. Some of them did, I believe. I am under that impression. The philosophers' vacation generally lasted about six weeks. The midsummer vacation began somewhere about June or July. My own summer holidays began at midsummer—about Midsummer Day.'

The Attorney-General is not satisfied, so he says, 'May I take it within a week or fortnight of that time?' Well, that gives the defendant an opportunity of changing, so he replies:

'I won't confine myself to dates at all. It was within a fortnight before or a fortnight after, to the best of my recollection. What do you want me to state it for? Do you want me to state what I don't recollect? I don't recollect what month it was in; I think it was later on. (The

question was repeated.) Do you recollect when your summer holidays began within a month?—I think the holidays began in April, August, and December. The August would be considered the Midsummer holidays. I think it was the beginning of August. I am not positive about it. I have no distinct recollection. My reason for saying now it was about August is I have tried to recollect. I have no distinct recollection.

In other schools the summer holidays do generally begin at midsummer, but at the great public schools—Eton for example—they are generally from the end of July to the beginning of September. So the defendant fixes the summer holidays at midsummer, but the Attorney-General goes at him again and presses him further about it. Of course when this pressure was put on him, believing he had got wrong, the defendant says, 'My answer to your question is, I don't recollect.' Now, having no distinct recollection on this point is not satisfactory, because Roger Tichborne used to spend his vacations partly at Tichborne and partly at Knoyle, and his favourite amusement during the vacation was shooting. But if the vacation had begun in June and lasted for two months, that would not carry him into the shooting season. Therefore when the vacation did begin is a fact which I should have thought Roger would have remembered. The defendant says, 'I think the summer vacation lasted about six weeks.' And now comes this strange statement,—"I know it was six weeks in winter." The fact is there was no such vacation in winter; it is purely imaginary. Then he is asked, 'How many weeks did the vacation last in summer?' The answer is, 'I think three weeks;' so that he puts the length of the vacation as six weeks in winter and three weeks in the summer—the fact being that the summer vacation lasted two months and the winter vacation only ten days, in which the students stayed in the place, unless when those who were philosophers got special leave. Then he is asked about the Easter holidays, but both the questioner and the witness seem not to have been aware of the fact that at Christmas and Easter the vacation was, properly speaking, no vacation at all.

It would seem that on the subject of the vacations the defendant's mind was in a strange state of confusion. He thought the Summer vacation was at Midsummer instead of in August, and that the Long Vacation was at Christmas instead of in the Summer; but on these points he sets himself right by the obvious coöperation of the cross-examination. Again, he appeared to be utterly unaware that at the Christmas holidays the students were not allowed to leave the establishment, but that their vacation consisted in a relaxation or cessation of their studies. He is equally out as to the half-holidays, and says that they were on Wednesday and Saturday afternoons, which is usually the case at public schools, whereas at Stonyhurst they were on Tuesdays and Thursdays.

Then there were one or two particular events which happened while Roger Tichborne was at College. First of all there was the smoking. Roger it appears was very much addicted to smoking. The defendant is asked about this, and he says he did smoke a great deal, wherever and whenever he could get an opportunity. On being asked whether smoking was against the rules, he said: 'They let us smoke.' 'It was permitted?—Yes.' 'Smoking was allowed at Stonyhurst?—It was.' 'Do you really mean that?—Yes, I do.' The witnesses told us, however, that the young men were in the habit of smoking a

great deal and screening themselves from observation behind some high hedges while they were enjoying this forbidden pleasure. When the authorities discovered this they caused the hedges to be cut down quite low, and after that Roger Charles Tichborne and others made a cabin to smoke in in a wood near the College. Father Rigby soon found out the cabin and had it cut down, whereupon the smokers took refuge in an old flue which was covered with ivy. The defendant on being questioned admitted that he did smoke a great deal, but he had no remembrance whatever of these circumstances.

Then there is the death of John Berkeley. He was a Philosopher, and was very popular at Stonyhurst. An abscess formed it-self in his side. He neglected it, and when at last it got very bad, medical advice was called in, but it was too late, for the abscess struck inward and he died. The death of this young gentleman produced a good deal of excitement among his brother students. This was in January 1847, and after his death there was performed in the church of the institution the most impressive of all the rites of the Roman Catholic Church—a solemn requiem mass for the deceased, which every body, high or low, connected with Stonyhurst, attended. The body was afterwards taken away to be buried in the family vault. Now, Roger Tichborne lodged in the next room to this young man, and, like the other inmates of the College, he was seen going in and out, anxiously inquiring after the health of his friend. An event of this kind was surely calculated to produce a considerable sensation in the community, and to leave a permanent impression on the minds of the students. The defendant is asked whether he remembers any one of his friends dying at Stonyhurst. He replies that he thinks one or two of the Fathers died, and when asked as to any young gentleman dying, says he has some remembrance of somebody dying in 1847—which, by the way, is the correct date—but he thinks he was not a friend and he cannot tell his name.

The last event out of the ordinary course of Roger Tichborne's College life is his taking a part in a play called *The Castle of Andalusia*. The defendant is shown O'Keeffe's play and asked whether he took part in it. He does not think he did. Then he is asked:

'Did you ever read a farce called *No Dinner, but However*?—No; I have no recollection of it. Did you ever take part in *No Dinner, but However*?—I have taken part in no dinner often enough. I am glad your spirits are so good. Now you have had your joke, will you answer the question? Did you take part in *No Dinner, but However*?—No, I do not remember that I did. I will not swear, but I do not think I did.'

It seems that the Philosopher played *The Castle of Andalusia*, followed by the farce of *No Dinner, but However*, and, according to the playbills, Roger played in the first the part of Ripino, and in the second that of a villager. Here, again, the question is, however insignificant the parts may have been which a youth played while at College, would he forget the fact afterwards; or supposing it to be almost buried in oblivion, whether the playbills, with his name figuring in the parts, being produced would not recall the circumstance? It may be that he did not play, for we have no positive proof that he did; but if he did it is for you to consider whether he would be likely to remember the fact.

Now, I come to the last matter connected with Stonyhurst. Under what circumstances did Roger

leave the College? I take it to be perfectly clear from the evidence that Roger Tichborne left on the 1st of August 1848. Did he ever return? It is suggested that he did. The defendant conveyed to the former jury the belief that he, Roger Tichborne, left Stonyhurst prematurely before the period had expired for which he was intended to remain there. The reason assigned for this was that he had contracted a disorder which showed he had been guilty of such immoral conduct as could not be tolerated in the institution. On the present trial it has been suggested that Roger Tichborne went back to Stonyhurst after the summer vacation of 1848, and that subsequently he was summarily dismissed. In the cross-examination at the previous trial the defendant was asked whether he had an illness at Stonyhurst. The defendant admitted that he was ill for a few days, but declined to say what was the matter with him. I cannot solve what Sir John Coleridge had in his mind when he pressed questions of this sort. The medical gentleman, Mr. Pinder of Preston, went over to Stonyhurst three times. The prescriptions were a blue pill and a saline draught, evidently for a disordered stomach, and afterwards he was bled, but this treatment does not point in the direction indicated. There is nothing to show that Roger Tichborne had any illness of the kind hinted at while he was at Stonyhurst. Whether the Attorney-General had in his mind the occasion when the doctor bled him I do not know, but the defendant evidently had something else in his mind. Mr. Serjeant Ballantine again takes the matter up in the re-examination, when the defendant says: 'I was attended by a doctor—one of the priests.' 'Without going into details,' asked Mr. Serjeant Ballantine, 'was any communication made to you after that illness?—Yes, there was. And how soon after that did you leave the college?—About a month afterwards. Had you intended to leave so soon?—No, it was not intended that I should leave so soon.' Thus the defendant refers to this illness as leading to his leaving, and it has no reference to the supposed illness of a similar description which his learned counsel says happened soon after his arrival in the college.

We know perfectly well that Roger Tichborne left Stonyhurst on the 1st of August 1848, and that when his commission was applied for his father stipulated that he should continue his studies till that date. His accounts are made up to that time. It is true an extra month is charged for, and this at first caused some difficulty, but it is explained by the fact that Roger Tichborne went to Stonyhurst before the collegiate year commenced, and therefore, in addition to the 100*l.* payable for the annual course, the extra month had to be paid for. There is no trace of Roger Tichborne in the books afterwards. We know that after leaving Stonyhurst in 1848 he spent a little time with Mr. Seymour, that he then joined his father at Clifton, that he stayed there till the middle of September, and that he then accompanied his father to Rheims. We find a letter from the father, dated Boulogne, 14th of October, when they were coming back. Afterwards he went with his father to Knoyle. The mother, it appears, wished Roger to return to Stonyhurst, but the father writes that this is altogether out of the question, and when the young man himself receives a letter on the subject from his mother, he promptly declines to go back. Therefore, to maintain that Roger Tichborne ever returned to Stonyhurst is perfectly absurd, and the statement of the defendant that he left Stonyhurst

earlier than he should otherwise have done in consequence of the complaint he had completely fails to the ground. Indeed, the statement is not only unsupported by the evidence, but it is contradicted by it. Whatever may have prompted it, what was the motive for making it I cannot suggest; all I know is that it is positively and unmistakably contradicted by the evidence. So much for Stonyhurst, except the evidence of two witnesses, one of whom at all events is worthy of attention.

Thomas Richard Hoffland says that in the years 1845 and 1846 he was drawing-master at Stonyhurst, and that he remembers Roger Tichborne as one of his pupils, but he made very little progress. This gentleman had a partner named Hill, and they used to go from Preston to Stonyhurst together. Mr. Hoffland taught landscape, and Mr. Hill taught figure drawing. Mr. Hoffland saw the defendant at the Royal Hotel, Preston, to the proprietor of which he said he was perfectly well known by name. The defendant, when he saw him, said, 'You are Mr. Hoffland, the gentleman who used, with another, to come over to Stonyhurst, from Preston, once a week.' The defendant further told Mr. Hoffland that he did not recognise him by his face, but he remembered that he had lost a limb. Then the witness questioned him as to who was his partner, and, after some consideration, he gave the name correctly. He subsequently said that he remembered the small public-house at Hurst-green, a short distance from the college, and that it was kept by 'Old Betty.' Now, that is rather striking, because upon the former trial the defendant did not remember Hurst-green at all. Then, says Mr. Hoffland, 'I asked him whether he remembered the name of the rector of the college at the time,' and he said, 'Yes; the Rev. Father Walmsley.' Now, gentlemen, the witness ceased to be the drawing-master at the end of the collegiate year, 1846; and the Rev. Father Walmsley was not rector until after that time; therefore the answer must have been incorrect. The defendant only appears to recollect Walmsley, although there were three or four rectors at Stonyhurst in Roger Tichborne's time. Other questions follow, and then he asks Mr. Hoffland whether he ever remembered meeting him at Preston in a place where neither of them ought to have been, and his (Hoffland) asking him not to mention to any one the meeting. The witness replied, upon reflection, that he did remember the circumstances, and added, in the box, that he had a firm conviction that no one else but themselves knew of the meeting. Mr. Hoffland, when asked as to the identity of the defendant, said, 'I could not speak from personal identity, but from the question he asked me I should say that he was Roger Tichborne. The general expression of the upper part of the face reminded me of Roger Tichborne at the end of the conversation.'

Now, gentlemen, you see here is a considerable amount of want of knowledge displayed with regard to the many points upon which the knowledge of the defendant has been tested with reference to his going to Stonyhurst, with reference to his residence there, and the particular incidents which happened while he was there. Against all this want of knowledge there is something to be set off. He forgot Hurst-green on his examination, but remembered it subsequently, and then there is the other recollection, which seems to be the one green spot on the waste, and that is the recollection of his visit to Preston, and his inopportune rencontre with the drawing-master.

The drawing-master was *in pari delicto* with the naughty boy, and all he could say was 'Roger, don't say anything about me, and I won't say anything about you.' Whether Roger Tichborne afterwards mentioned the circumstance to some of his companions while smoking behind the hedge at Stonyhurst, and whether what the learned counsel calls a 'bird in the air' carried the story to the ears of the defendant does not appear; but otherwise it is remarkable that there should be one particular circumstance by which he is enabled to revive the recollection of the drawing-master on the subject of their common transgression and so to satisfy him that he was the real Roger Tichborne.

There is a young woman from Stonyhurst who says she heard Roger Tichborne speak several times, and noticed the peculiar manner in which he used to throw his legs about. She takes upon herself to speak to his identity, and expresses her opinion that he is the man. That is the case with reference to Stonyhurst.

There is one visit at this time to which importance is attached—namely, the defendant's visit to Burton Constable in the early part of 1848. He is asked:

'Do you remember any particular place to which you went in your holidays?—Most likely to Tichborne; and I went on one occasion to Burton Constable.'

It is remarkable that he made no mention of Knoyle, which Roger went to every year as regularly as he went to Tichborne.

'How long did you stay at Burton Constable?—Just about five or six weeks, I think.'

Sir Percival Radcliffe tells us Roger was there for a fortnight only. The defendant must have had in his mind the Christmas vacation, he being under the impression it lasted five or six weeks, when we know it was only a ten days' vacation:

'Do you remember anything happening at Burton Constable?—Yes, several things. Do you remember the private theatricals?—Yes. In what part of the house were they held; in the long room or the library?—It was called the long room and also the library.'

He next speaks of his cutting down a hedge. Sir Talbot Constable was cutting down a hedge on one part of his farm, when the defendant came up and said, 'Let me cut it down;' and he says he did cut it down. He also says he bought a black mare of a horse-dealer named Lambert. Then he tells us a story of his having helped himself and the guests with wine from the decanter on the sideboard in the absence of the butler, which, if proved, shows that the defendant had a good memory, though it is not exactly a thing he would remember in after-life if he forgets other matters of infinitely greater importance. When they were in the cab the defendant said he remembered giving to Bertram Talbot a black horse which he bought of a farmer named Lambert, upon which, says Sir Percival, it flashed across his mind that such a thing did take place, but that it was he (Sir Percival) who gave the horse to Bertram Talbot; and that it was he also who bought a horse from Lambert, though that was quite a different one. So that the defendant, although he had got hold of the story, was wrong altogether as to its particulars. He was next asked about some private theatricals at Burton Constable.

'Do you recollect any French being played there?—Yes, I think so. Then there was a French piece played there?—Yes. Now tell me the name of it?—That I can't. I should have thought you

would give me an answer like lightning?—No, not like lightning. What did you play, prince or servant?—I don't recollect. You say there was a French piece?—Yes, I believe it was a French officer in an English piece. I think the name of it was "Popping the Question." Now we are getting very close to it—quite warm, as they say. Tell me all about it.—I don't recollect anything more. Then there was a French officer in an English piece?—I have not said it was a French piece. Surely you can give me the name of the officer?—No, I can't. But did you act anything at all at Burton Constable?—Are you asking me on that particular night? I mean on the occasion of your visit.—I thought you meant on that one night. Did you act anything else?—Yes, I did; I danced the "Can-can" before a lot of ladies and gentlemen in the library. That was in 1847?—I was just thinking. Will you swear?—Yes, I am positive about it.

I suppose the question of the Attorney-General implied that the *can-can* was a dance of more recent date than 1847 or 1848. However, I am not acquainted with the *can-can*, and do not know when it was first introduced into the world. One generally understands that it is not the most decent of all dances, but I am sure I don't know. The defendant is further asked:

'Did you play or take part in anything? You recollect the dancing. Did you act a part on that occasion?—No, I don't recollect acting any part. Will you swear you did not?—Wait a little and I may recollect all you are asking me about. Will you swear you did not act a part?—You seem very anxious to get me to swear to things that I don't recollect. Do you think you did or did not act a part?—No, I don't think I did. If I did it was something very simple. Can't you pledge yourself whether you took a part before the company at Burton Constable?—I tell you to the best of my belief I did not. Was Mr. Percival Radcliffe there?—Well, he says he was, but I don't believe it. Will you swear you did not act with him?—Yes, that I will. Did you take any part in any performance with him?—No, that I did not. Will you swear you did not?—I think I may safely say I did not, and I will swear it. Would you be surprised to find that Roger Tichborne acted the part of a French student, with Mr. Radcliffe as another French student?—I did nothing of the kind.'

Sir P. Radcliffe is called, and states that he met Roger Tichborne at Burton Constable during a visit there at the end of 1847 and the beginning of 1848, and they became very intimate. Lady Constable was fond of acting, and it was a common afternoon or evening amusement to get up a play. He remembered performing in a French vaudeville with Roger Tichborne. They were two students. Sir Percival Radcliffe was asked whether the *can-can* had been danced at Burton Constable, and he said he was sure Sir Clifford Constable would never have permitted it.

About that time a visit was paid by Roger Tichborne to Towneley, the seat of Colonel Towneley, near Burnley. Upon this some questions were put to the defendant as to the character of the house. The defendant said it was about 12 miles from Stonyhurst, which I believe is right; and he was also right in saying that he was only there about twice. He said there was a village called Towneley, and though that is not correct, there are a number of straggling houses which might give the idea of a village. He cannot remember what the house was like, nor whether there was a tower in the centre of the house, as suggested

by the Attorney-General. It does not seem that there is a tower in the centre, but there are four towers outside, which are conspicuous. Mrs. Towneley asked him whether he ever remembered going to Towneley, and he said, 'Yes,' but when asked where it was he said, 'Near Bath,' the fact being that it is only twelve miles from Stonyhurst.

Now we can come down to the end of the year 1848, and we enter upon the commencement of the year 1849. On the 1st of January in that year Roger addressed a letter to Lady Tichborne, in which he said that he was very happy at Tichborne, and was spending his time in field sports and reading instructive books. After writing that letter he goes on two visits—one to Bilton Grange and the other to Bath. The visit to Bilton Grange was not marked by any particular incident, but it extended over a fortnight, and one would have thought that it was long enough to have impressed upon his memory a recollection of the house, which in point of architecture is rather remarkably constructed. He is asked in cross-examination where it was, and he says either in Warwickshire or Yorkshire. Well, then a scene occurs in court—somebody, either intentionally or unintentionally, said 'Warwickshire,' and the defendant then said, 'I said it was either in Warwickshire or Yorkshire. I recollect now that it is in Warwickshire.' On being asked, 'When you went to stay there, what station did you get out at?' the defendant replied, 'It was either Rugby or Crewe—Rugby, I think.' Now Rugby is the proper station, and is the post town. This may be discovered by looking at the *Court Guide*, but it by no means follows that the defendant prepared himself for the question. Then he is asked who he met there, and he said, 'I recollect meeting my cousin Bertram there—Bertram Talbot.' Mrs. Washington Hibbert was called, and she was asked if she remembered this visit of Roger to their house at Bilton Grange. She said that Mr. Bertram Talbot came there from time to time; but she does not think he was there after September 1848. Then she is asked whether there was not a good deal of talk about Mr. Bertram Talbot. Now, the defendant does not say that there was conversation about him, but that he actually met him at Bilton Grange, while Mrs. Washington Hibbert says that her son was there in September and not after, and that Roger Tichborne never met him at Bilton Grange. Again the defendant is asked what sort of place Bilton Grange is, and he says he cannot recollect. A coloured drawing of the place is shown to him; but he does not recognise it, because it is a bird's-eye view, and he never had a bird's-eye view of Bilton Grange.

Roger Tichborne afterwards went to Bath, where his uncle Robert was staying. Mrs. Nangle, her daughter, and her two sons were also staying there, and Sir Edward and Lady Doughty came to join them, so that there was a regular family party. Roger went to the White Lion Hotel at Bath. There were, it seems, one or two incidents during the time he was there. In the first place, there was a ball given, and Sir Edward Doughty and Lady Doughty went to it. Sir Edward, while going downstairs, had a very severe fall, which at first caused considerable alarm to the members of the family. The ball is remarkable in another respect. Mrs. Allen, the butler's wife, was delivered of twins just as the ball was about to commence. The defendant is asked who was *here*; and he says he has no recollection of any member of the Tichborne family being there; he *does not recollect the ball*, and he appears equally

ignorant of any accident having happened at it. He does not remember any member of the family being at Bath while he was there, whereas we know Sir Edward Doughty was there at that time. We know Roger Tichborne was there at that time; and I do not find that Roger Tichborne ever paid any other visit to Bath when Sir Edward Doughty was there. Again, he says he does not remember Mrs. Nangle being at Bath. Questioned about the Nangles, he says he does not remember meeting the young Nangles there; or anything about being out with Captain Nangle on one occasion, and being refused admission to a ball; or that he used to go with the captain when he paid visits to a young lady in that neighbourhood whom he afterwards married; or their conversations in French, that being the only language the Nangles spoke when talking with Roger. The defendant said these things never happened at all, and you, gentlemen, must decide between him and Major Nangle as to which you will believe.

We now come to 1849, when you know that Roger was working at his problems and taking lessons from the Rev. Mr. Moberly at Owslebury. You will remember that an application had been made at the Horse Guards in 1847, and his name was put down for a commission. You know also that in the course of 1848 Mr. Seymour took him to the Horse Guards and introduced him to Lord Fitzroy Somerset to remind him of his promise, so that Roger Tichborne became personally acquainted with that distinguished officer. Months passed away, and at length he took the decisive and bold step of writing to Lord Fitzroy Somerset, and you will remember that an answer came stating that, subject to his passing an examination in mathematics, his commission would be sent him. He had a very short time to prepare, for he was to go to the Sandhurst examination on the 1st of July. He went to Sandhurst, and at his father's request Colonel Greenwood went with him. They got there on the evening of the 30th of June, but could get no accommodation at the Duke of York hotel, and were obliged to go to the Tumble Down Dick public-house, near the Farnborough Station. It appears that some arrangement about the examinations was made, and on getting a certificate for mathematics he was allowed to join.

It was thought desirable by the defendant's counsel, in his examination-in-chief, to go into this matter, and, in reply to Mr. Giffard, the defendant said he was studying for going through his examination before he went to Sandhurst, at Mr. Seymour's in Grosvenor-street. He thought some one came to the house to help him, and says he got a certificate, but has no idea what has become of it. Now, the certificate referred to there is the certificate obtained at the only examination which had up to that time been mentioned. He says he did go to Sandhurst to get a certificate. It would seem to be implied that he was at Grosvenor-street studying previously; but that is a mistake. He says he could not know that he should have a commission until he had passed the examination. The defendant seems, first of all, to think it was Mr. Henry Seymour house at which they were. Afterwards he cannot say whose house it was—all that he knows is, that Mr. Henry Seymour was there; but he believes the house very probably belonged to his grandfather; though he does not remember Mr. Seymour being there. You will bear in mind that Roger Tichborne was at Mr. Seymour's house in 1845.

The cross-examination proceeds, and the defen-

dant said he remembered 'a professor of fortification,' who taught him 'the landmarks of England;' and being pressed to state what the landmarks were he replied: 'The landmarks of England insinuate the formation of England at different points along the coast, which every officer is bound to learn, I believe, before he can pass.' Now, what a cavalry officer can possibly have to do with the landmarks of England I cannot possibly conceive; but I believe we did discover the solution of the mystery. It appears that there is a book published for 'coaching' purposes, and is entitled the *Landmarks of English History*. That at least is the only solution I have been able to discover of this supposed study of landmarks. He is next asked, 'What else besides landmarks did you learn?—There were some other subjects, but I don't remember what they were. Who coached you?—George Greenwood.' Colonel George Greenwood was called and examined as to other matters, but he was not asked whether or not he had assisted Roger Tichborne in the way of 'coaching.' I was very anxious to see whether the defendant was right or whether he was wrong. If he were right, it would have been a striking instance of knowledge or memory with regard to a subject which of course interested Roger Tichborne at the time very much. Therefore I asked Colonel Greenwood this question:

'You told us you did go with him to Sandhurst?—Yes. You said you knew he was going to be examined; you were aware of that beforehand, I suppose?—Yes. Did you help him at all?—No, not in the least. You did not coach him?—No. Did you happen to know whether he had been preparing for that examination?—No, I knew nothing about it. His father sent a letter from Paris to ask one of the Colonel Greenwoods to go with him to Sandhurst. Then you knew nothing of the preparatory course he had been going through?—Nothing whatever.'

Nothing can be more precise than this testimony, and what could have induced the defendant to assert that he was coached by Colonel Greenwood for the examination at Sandhurst I cannot conceive.

The defendant is next asked about the number of teachers he had, and then whether the name of the man who taught him was Moberly, and he said he believed it was some kind of name like that, but he could not say, nor could he tell where he lived. Then he is asked whether he knew a place called Owlebury, and he said he did not know it by that name, nor did he know anything sounding like it. He says he has no recollection of a place called Owlebury. Then a letter is put into his hands. It is dated the 10th of September 1849, and it is the one which Roger Tichborne writes to Gosford begging him to send a note to Mr. Moberly to say he is not going to take any more lessons from him, because he is studying in London. The Attorney-General asks him if he would be surprised to learn that Mr. Moberly was a clergyman living within three miles

(he should have said six) of Owlebury. The defendant says he does not think there is a village of that name, unless it is some hokey-pokey place. He then adds that he has a recollection of going somewhere in the neighbourhood for a certain time before he joined the army. Here the defendant is evidently puzzled with the date of the letter. The examination at Sandhurst was on the 12th of July, and the letter is dated the 10th of September. He seems to have either forgotten that there was a second examination, or that he had passed it.

'What did Mr. Moberly teach you?—Something in connection with the examination. What?—I believe it was English. Was that all?—I really do not know what he taught me. Did he come to you?—I think I rode over to him. How often?—I cannot say.'

Now, we know that Mr. Moberly taught mathematics to Roger, and you have heard his letter to Gosford, in which he says he can't visit him, as he has to ride six miles every day to take his mathematical lessons. The reason suggested for the defendant's not knowing about this is that he never heard of Owlebury, the place being called vulgarly Husselbury, and no doubt he might have forgotten it. But did Roger know how to write it? In his letter to Gosford he spells it wrongly, omitting the 'le,' and makes it 'Owsbury'; but in his pocket-book, in which he took down the name and address of his reverend instructor, he spelt it correctly—Owlebury; but he could not have failed to recognise in the Husselbury of common parlance the Owlebury connected with Mr. Moberly and his mathematical lessons. Suppose the question had been suddenly put to Roger, he might have corrected the pronunciation of the word; but would he have said he did not recollect the man or the place? Is the explanation satisfactory?

The result is that the defendant makes several serious mistakes, first in ignoring the preparatory studies at Tichborne, and in supposing they were pursued in London; secondly, in ignoring the failure of the examination at Sandhurst, the expectation of a second examination, and the fact that it was dispensed with on his obtaining a certificate from the professor who taught him mathematics; and thirdly in supposing the studies in London to have preceded the Sandhurst examination, instead of being preparatory to the second examination, and having led to his obtaining the certificate which superseded the necessity for the examination. In re examination the defendant said he knew he was plucked at Sandhurst. He identifies his problems and examination papers, but says he does not remember in what he passed. It is for you, gentlemen, to judge whether or not the account the defendant gives of his preparation for the army is such as you would have expected from Roger Tichborne, making allowance for the time which elapsed between the event and the examination at the first trial. This concludes the intermediate stage, and to-morrow we will go into his life in the army.

SEVENTEENTH DAY, Tuesday, February 24, 1874.

Gentlemen of the Jury,—Before I come to the question of the defendant's recollection of the military life of Roger Tichborne there is one subject which I ought to mention, and that is, Roger's visit to Knoyle in the year 1849. The defendant was asked one or two very important questions with respect to the relations of Roger Tichborne

to the Seymour family. We know now perfectly well that that relationship was never formally or ostensibly acknowledged. Of that fact there is not a shadow of doubt; but when the defendant is asked upon that subject, his statement does not seem to coincide with that state of things. He was asked whether he called his aunt the Mrs

Seymours by their Christian names, or as 'Aunt Jane,' and so on, and his reply is, 'I should think aunt, but I have no recollection.' In like manner, he says, he called Mr. Alfred Seymour Uncle Alfred, and Mr. Henry Seymour Uncle Henry, adding that at times 'I might have called them Alfred or Henry.' He is asked, 'Will you swear you called them uncle?' and he said, 'No, I do not see any objection to swearing it.' 'Will you?' he is asked; and he answered, 'I will, to the best of my recollection.' That certainly is in direct contradiction to the several members of the Seymour family who have been called, and to the letters of Roger Tichborne to his uncle, of which we have a good many. The same thing occurs in reference to Mr. Seymour. He says he called him grandfather, and spoke of him to others as his grandfather; but we know that Roger, in his letters, always referred to him as Mr. Seymour, and never as grandfather. Now, we know that during Roger's visit to Knoyle, in September, where he joined his father, his grandfather was ill at Bath, at the house of Mrs. Hopkinson, his wife's mother, where he died on the 27th of November following. The defendant is asked whether he saw Mr. Seymour just before his death, and he says,

'What do you mean by "just"? A couple of months? I think I saw him in September. Where was he?—I do not think he was confined to bed. Was he known to be dying?—I think not. Was it not known to the family that he could not recover?—I have no recollection that he was so dangerously ill as you talk about. Did you leave your grandfather thinking that you should never see him again?—I think not. I never did see him again.'

Then he is asked:

'Were you ever at Knoyle with Sir James Tichborne?—I think not. Where did Mr. Seymour, your grandfather, die?—He died at Knoyle, I think. Would it surprise you to find that Mr. Seymour did not die at Knoyle; that you were at Knoyle—or Roger Tichborne was—during his last illness, or that he went over to Knoyle to Mrs. Hopkinson's house at Bath, where Mr. Seymour was lying dying, and saw him there, and that in that house he died about a month afterwards?—I deny that being the case.'

Well, we know that Mr. Seymour had gone to Bath for the best medical advice that he could procure, and that Roger saw him and took leave of him there, and we know that he died not at Knoyle, but at Bath. Lady Rawlinson was at the time in attendance on her father, and she tells us she recollects Roger's visit perfectly, and that at that time it was well known that her father was dying. She is asked, 'Did Roger know that he was taking a final leave of his grandfather?' and she replied, 'Certainly.' That is how the evidence stands on that point. Now the question is, whether a man could go to see a relative under these circumstances and forget it. Is it a thing likely to be effaced from a man's mind? He had gone over to Bath to take leave of his dying relative, and could he, under the circumstances, have been so mistaken as to have forgotten the leave-taking, or said that his grandfather died at Knoyle?

Another question was raised respecting Knoyle, and that was as to old Mrs. Hopkinson. She was the mother of Mrs. Seymour, and invariably lived at Knoyle with the family when they were there, and they frequently stopped at her house in Bath. The defendant, on being asked, said he did not recollect such a person of the name of Hopkinson at all; and when the Attorney-General asked him he should be surprised to learn it was Mrs. Sey-

mour's mother, he then said he recollected the old lady, but denied all the incidents connected with her residence at Knoyle. We know that Roger Tichborne always went to see Mrs. Hopkinson; and his father, in one of his letters, remarks how kind she always was to both of them.

Then there arose the question as to Roger's smoking at the butler's cottage. Mr. Alfred Seymour had a room in the cottage, and as Mr. Seymour disliked smoking in the house, and as Roger was an inveterate smoker, he used to go to Mr. Alfred Seymour's room, and there smoke. He used also to practise on the French horn there. The butler's name was Thompson; and he afterwards, when he left the service of Mr. Seymour, set up as lodging-house keeper in St. James's-place and Roger always used to stay there when Mr. Seymour's London residence was not available, so that he knew Roger familiarly and well. The defendant, however, on being cross-examined, said he did not recollect the butler, or his name, or anything about him. That he should have forgotten this man does seem very strange, and it is for you to say whether you think Roger Tichborne could have exhibited so remarkable a forgetfulness as that of the defendant with respect to Mrs. Hopkinson and Thompson. On the subject of the smoking he is asked, 'You were a smoker?—Yes, I was. Where did you smoke at Knoyle?—I do not remember. In your own room?—I think not. Where then?—Anywhere I could get. No doubt I made use of the butler's room; but I will not say so; because I do not remember.'

Well, a photograph of Knoyle was shown to him. It was a correct representation of the front of the house to the road, showing the butler's cottage opposite, and the window of the room in which Roger used to sleep. This photograph seems to me to be a very accurate representation of the exterior of the house. It is shown to the defendant in cross-examination, and he cannot recognise Knoyle in it. For four years Roger Tichborne spent his vacations at Knoyle, and the natural conclusion would be that he would remember the photograph when shown to him. The defendant is further asked, in cross-examination, whether he ever shot at Knoyle, and he replies that he has no recollection, and adds that certainly he never had a regular day's shooting there. Now, Roger's letter shows that he often went out shooting at Knoyle; and Mr. Hewitt, who was called here as one of his witnesses, and also Mr. Baker, speak of Roger spending days and days out shooting at Knoyle. We have here, too, this very remarkable fact, that while at the last trial the defendant knew nothing of the butler, and denied that Roger ever had a day's shooting at Knoyle, when he subsequently sees Hewitt, his attention having been drawn to the matter, he perfectly recollects all about the shooting at Knoyle, and not only that but the colour of the dogs. Furthermore, he recollects Thompson, the butler, and says he was a one-eyed man, and had in consequence to shoot from his left shoulder.

I now come to Roger's life in the army. He arrived at Kingstown on the 25th of October, and joined in Dublin on the 27th. The defendant gives a different account; but there is no doubt about the fact. Colonel Bickerstaff, who was then adjutant, tells us that Roger presented himself in plain clothes; that the regiment was giving a dinner that day, and that Colonel Jackson mistook Roger for a person come to assist the cook, as he was so queerly dressed. He, however, produced his letters, and was handed over to the ad-

jutant, who put him in the hands of Lieutenant Forster. The defendant, in cross-examination, was asked about this, and he stated that he was four or five days in Dublin before he joined. That we know is not in accordance with the fact. He further stated that the delay was caused by the fact that he had to procure regimentals and accoutrements; whereas we know that he had dined at Knoyle before he left for Ireland in full regimentals, and also at Tichborne House. He went on to say that he joined the regiment in full regimentals, and that he was introduced to the colonel by Captain Jones. You have the evidence of Colonel Bickerstaff as to the manner in which Roger Tichborne presented and introduced himself to Colonel Jackson. Then he said he was first attached to Captain Forster's troop. That is a total mistake, as Mr. Forster was then only a lieutenant. He was in fact attached to Captain Joceelyn's troop. Here, then, we have a series of mistakes. We know by whom he was received, when he joined the regiment; we know also that he was not in uniform, but that he was clad so meanly as to attract the attention of Colonel Jackson.

The defendant was asked how long he was at Portobello Barracks, Dublin, and he thinks he was there seven or eight months; Roger Tichborne was there only five months. That is an error, however, that might easily be made. There was then a good deal of inquiry with reference to the proceedings of Roger Tichborne in Dublin society, and some of the answers given by the defendant are worthy of attention. He is asked in cross-examination:

"Did you go much into society in Dublin?—No, not very much. Did you at all?—I used to go occasionally to a ball. Where?—Different places where the balls have been held. I suppose you went to balls where the balls were held; what I want to know is where the balls were held?—There were one or two balls held at the Castle, and one or two private balls I went to. The balls were at the Castle, and the levées as well were held there?—There were balls at the Castle. To which you went?—Yes. And private balls?—I did not say private balls; I suppose so. Private balls—where? Give me the name of any private gentleman where you went to a ball in Dublin.—I do not remember the names now. Did you dine out in Dublin?—Yes, a good many times. Where?—I do not remember where. Cannot you give me the name of any gentleman?—No. Not one gentleman with whom you formed an acquaintance?—No. What I want to know is the name of any one in Ireland whom you went to visit or associated with?—A lot of people. It is quite impossible to tax my memory."

Next he is asked:

"Did you go to the Castle?—During my stay in Dublin? At Dublin.—While I was in Dublin, you mean? Yes. You were in Dublin some time?—Yes. Did you go to the Castle?—Yes, I went there several times. Where is the Castle?—Do you mean what part of Dublin? It is in St. James's district, I think. St. James's what—district?—Yes, to the best of my memory. Whereabout does the Castle stand in Dublin?—I do not exactly know how to describe where it stands—about south-west, north-west, I should say. Near the river?—I do not remember whether near the river now. What is the river?—I do not know; I forget what river it is. You say you went to the Castle. How came you to go to the Castle?—How came I to go there? Yes; what did you go

to the Castle for?—I was presented to the new Lord Lieutenant on one occasion. I do not know, what you are alluding to. Is that the first time you went to the Castle?—I believe it was. Who was the Lord Lieutenant?—I think it was Clarendon, if I remember right. You believe it was Clarendon. Are you sure?—I think so, to the best of my memory. How many times were you at the Castle altogether?—About three times, I think—three or four times. The presentation was on one occasion, you say; what were the other occasions of your going to the Castle?—I think there were balls at the Castle. Balls at the Castle, were there?—Yes. The Castle is the place where the Lord Lieutenant lives, is it?—Yes, I believe so. According to your impression, did Lord Clarendon live at the Castle when you were quartered in Dublin?—I really cannot tell you whether he lived at the Castle or not. Cannot you give me more of a notion where the Castle is in Dublin than that it is in St. James's district? Do you remember on which side of the river it is?—Which side of the river? Yes.—I cannot bring it back at the present moment. Do you recollect whether there is a terrace with steps down to the river from it?—No, I certainly do not. You do not remember?—No. Does it stand in a park? You say in a district. Is there any ground about it, or do you drive up to it, or what?—No, I do not know any ground to drive up to it. But is there, do you say?—No, I think not. There was an inspection of the regiment in Dublin. Where were you inspected?—In Phoenix-park. Did you go much into society in Dublin?—No, not very much. Did you at all?—I used to go occasionally to a ball. Where?—Different places. There were one or two balls held at the Castle, and one or two private balls I went to. Give me the names of any gentlemen where you went to a ball?—I don't remember the names now. Give me one place where you have been to visit?—I used to visit at Howth Castle. That is where Lord Howth lives?—Yes. What sort of place is Howth?—It is an old place. Where does it stand?—On the opposite side of the bay to Kingstown, on a kind of neck of land that goes out. Whom did you go to see at Howth?—Lord St. Lawrence. Were Lord St. Lawrence and you great friends?—We were very good friends. He was a connection?—I believe he was a distant one."

Now, with reference to Dublin Castle, we have it in evidence that there is no St. James's district in Dublin, and that the Castle stands in the parish of St. Werburgh.

The defendant says he went to Howth to see Lord St. Lawrence; but why he should not have gone to see Lord and Lady Howth, to whom he had been introduced by Mrs. Washington Hibbert, I cannot say. He then gives an account of having gone to Howth by boat, and says that the boat capsized. Mr. M'Evy tells us he questioned the defendant as to Howth, and came to the conclusion that he knew nothing about it. Lord St. Lawrence says he was not there at the time of the visit, but I think he must be wrong on that point, as I gather from Roger Tichborne's account of it in his letter. The defendant says he went to Howth before he joined his regiment, and that too is wrong according to Roger Tichborne's letters. Well, now, the question is whether the defendant really knew anything about Howth Castle until a late period, and after he had had one or two questions put to him on the subject at an interview which he had with Lord St. Lawrence. On that occasion the lordship asked the defendant whether he remem-

bered walking with him to Howth Castle from Dublin, and that the distance was about two miles. The defendant said he did. Now, the distance is between nine and ten miles. The learned counsel for the defendant, in his speech, complained of that as a 'trap,' and a deception which was not justifiable. I never think deception is justifiable myself, but that is a matter to be settled between Lord St. Lawrence and the defendant. He is further asked :

'Was there anybody else at Lord Howth's—any other members of the family?—There was a sister. What was her name?—I cannot tell you. If I remember right, she got married at the time I was in Dublin. Do you remember what her name was—either her Christian or surname?—Her Christian or surname? Yes.—Her name would be Howth, would it not? What was her Christian name?—I do not remember.'

Now, the family name is St. Lawrence, and the daughters, of course, would be Lady Emily and Lady Catherine St. Lawrence, and that Roger was fully aware of that fact is demonstrated by a letter of his in which he refers to one of them by her name. He alludes to a gentleman who was paying his addresses to one of the young ladies, and he says that he feared it was the love that makes haste, not the love that lasts. It does sound strange that Roger Tichborne, who knew that perfectly, should make such a mistake as this.

Then he is asked, in his examination in chief, whether he visited in any of the neighbouring counties :

'Where did you go to?—I went to Meath. Did you meet any one there?—Yes, I met Mr. M'Evoy. Any ladies?—Yes. I think there were two ladies, whose names were French.'

There is no mention of any such place in any of Roger's letters; and Mr. M'Evoy says he never met Roger Tichborne in Meath, and that he had no ladies staying at his house named French. Then he is asked :

'Were there any people you knew when you got to Ireland?—Yes; there was Mr. Bellew, Lord Bellew's son. Where did you see him when you got to Ireland?—I saw him both at Cahir and Dublin.'

He is right as to having met Lord Bellew at Dublin, but wrong in respect to Cahir, because Lord Bellew says he never was there. Then he is asked about a Mr. Burke :

'Who is Mr. Burke?—Why, he is Mr. Burke, I suppose. What was he?—I am sure I do not know—a gentleman, I suppose. What happened to you with Mr. Burke?—What happened? Yes, you say you knew him. Did you ride with him, or what?—Yes, I believe we went out riding together. Can you tell me anything more of Mr. Burke?—I do not know what more you want to know about him. Had you anything to do at any time in your life with a Lady Clanricarde?—Yes, there was a Lady Clanricarde in Ireland. Did you know her?—I believe I did; not well, though. Where did you know her?—I think at the Deases' I met her. Where did the Deases live?—They lived in Dublin. You met Lady Clanricarde at the Deases', did you?—I think, to the best of my recollection—yes. Will you swear you spoke to Lady Clanricarde in your life?—Yes, I will swear. Lady Clanricarde?—Yes. At the Deases'?—I will not say at the Deases', but I know I have spoken to her. Where?—In Ireland. Where will you swear you ever spoke to Lady Clanricarde?—I cannot remember where it was,

as I am under the belief that it was at the

Deases'. Was she an old lady or a young lady?—She was not a very young lady. Was she a very old lady?—No; middle-aged. Who was Lady Clanricarde? Do you recollect anything about her?—I do not know what her family connections were. Did you know Lord Clanricarde or Sir Edward Clanricarde?—I do not know Sir Edward Clanricarde. Did you know Lord Clanricarde?—Well, I cannot say that I do. Did you?—I believe I did. Was he with Lady Clanricarde?—No, I do not think when I met Lady Clanricarde there was anyone with her—not of the same name.'

Well, the question as to Sir Edward Clanricarde was a deceptive one, and Lord Clanricarde, the husband of the Lady Clanricarde here spoken of, had long been dead. But the defendant speaks of his having met Lady Clanricarde at the Deases', ignoring the fact that she had a house of her own in which Roger Tichborne dined many times. You remember the practical joke which was played on him by Captain Forster on the occasion of his first going to dine with Lady Clanricarde. He was told he would be sure to meet the Commander-in-Chief—the Duke of Cambridge—and that he should go in full 'regimentals, and he accordingly did so, but he found that there was no company, and he and Lady Clanricarde dined *à-tête*. Well, Mr. Burke speaks of Lady Clanricarde's kindness to Roger. She was extremely attached to his sister, Lady Ann Tichborne, and showed Roger a great deal of attention. Mr. Burke finds by his diary that during Roger's stay in Dublin he dined at Lady Clanricarde's no fewer than 36 times, and that he met Roger there frequently. Then as to Lady Teresa, the defendant is asked :

'Did you know a Lady Teresa Dease?—I believe I know a lady in Dublin named Dease; I did not know that she was a lady of title. I am asking about Lady Teresa Dease. Did you know her at all? Do you know who she is, to begin with?—I do not remember her; I remember the name. Lady Teresa?—No, Dease. I am asking about Lady Teresa Dease.—I think I knew a gentleman of that name also. I am asking about Lady Teresa; you would not know a gentleman of that name?—I said Rees just now; that is what I meant to say; I have some recollection of the name, but I do not recollect her. Who was she, if you knew her?—If I did know her I knew her in Dublin. Who was she? Do you know?—No, I do not. Did you know one of her sons at all?—I knew a gentleman of that name. There was a Lady Clanricarde in Ireland; did you know her?—I believe I did; not very well, though. Where did you know her?—I think at the Deases' I met her. Where did the Deases live?—They lived in Dublin. You met Lady Clanricarde at the Deases', did you?—I think, to the best of my recollection, yes.

Major Dease was examined and tells us that the family lived in Westmeath, and we know from one of Lady Doughty's letters to Roger that Lady Teresa Dease, whom she says she met at Brighton, was a person known to both of them.

Now, the question is whether the defendant's recollection of Dublin society comes up to what you would have expected from Roger Tichborne. He speaks in his letters of going out to balls—at private houses, at Sir Edward Blakeney's, at the Castle—and in one letter, dated the 15th of May 1852, on the occasion of his second visit to Dublin, he says that he had been at balls and parties almost every day for three weeks, and speaks of Dublin society and how very pleasant it was. So much for the visit to Dublin.

On the 5th of April 1850, the head-quarters of the regiment were transferred from Dublin to Cahir. It was at Cahir where a horse ran away and occasioned the death of Roger's servant Clarke. It was there, also, that through the bridle getting loose, Roger's charger, which must have been ill-tempered and impetuous, ran away, and coming into the barrack square, leapt over a child without injuring it. Of course, these were circumstances which would be well known in the regiment. That year 1850 was remarkable for two visits paid to Roger, the one by Mr. Hopkins and the other by his father. The visit of Mr. Hopkins was for the purpose of getting the deeds of settlement of the estates executed by Roger. That visit was made between the 7th and the 11th of May, because Roger, writing to Mr. Vincent Gosford on the 7th, makes no mention of the matter then, but, writing again on the 11th, says that Hopkins was with him to arrange as to the execution of the deeds, and so, as we know, the settlement is finally accomplished. In September his father paid him a visit at Cahir of three or four days, and while there occupied Colonel Norbury's quarters; and after the visit we know from Roger's letters that he accompanied his father to Dublin and spent two days with him there, returning on the third day. The defendant was questioned as to this visit and other incidents at Cahir, and, in answer, he said he stayed there five or six months, but the fact was that Roger was at Cahir more than 12 months. While at Cahir, on the 22d of November 1850, he obtained his lieutenancy, the vacancy being caused by Captain Jocelyn going on half-pay. On being questioned about this, the defendant said that with his lieutenancy he got transferred to the G troop, but we know that it was not until long after that he joined the G troop. He was asked if his father had any special purpose in paying him the visit at Cahir, and he replied that he had such a purpose, and that it was to gain his consent to the selling of Upton. Now, I have noticed from the letters that whenever any attempt was made to induce Roger to consent to the sale of Upton it always put him in a fume, and he wrote to Mr. Gosford, complaining that the subject had been brought up. I am inclined to think the subject was never mentioned on the occasion of this visit, as I find no trace of it in his letters at that time, and he speaks of the visit as one of great pleasure and satisfaction. Besides this, the final settlement had been accomplished by the deeds executed in the previous May. Being further questioned, he said he had a visit from Mr. Hopkins for the same purpose, and that both visits were made after he was 21—in the year 1851. It is a total mistake to suppose that these visits were made in 1851; they were made in 1850. And, again, the defendant reverses the order of them, and what is still more remarkable, he wholly omits to mention the purpose for which Mr. Hopkins really did go. He makes him out to have gone to obtain his consent to the sale of Upton. What he did go for was to get the execution of the deeds constituting the settlement of 1850, and which settlement proceeded upon the assumption that Upton was not to be sold. Of that the defendant seems to have been perfectly ignorant.

At this point the defendant mentions a circumstance which he says happened upon an inspection by a one-armed General, whom we know to have been General Napier, at Cahir. He says, in reply to his own counsel in his examination-in-chief:

'Captain Polhill forgot his word of command,

and could not draw the cavalry out. An orderly officer was sent over to ask what the word was. During his absence I happened to remember it, and I gave it and drew the troops out, and Captain Polhill was reprimanded afterwards. The troops were against the barrack-wall, and Captain Polhill could not draw them out. I gave the word of command myself, and drew them out, but I ought to have given it first to the Captain, I have no doubt. Captain Polhill was not pleased with me after this transaction. Shortly after I went into the G troop.'

He is asked further about the reprimand, and says it is painful to him to have to state these things, adding, 'You, Mr. Giffard, are forcing me to do so.' As his own counsel was examining him on instructions given by himself, I cannot help thinking that a piece of hypocrisy which might well have been spared. This story is told with a view to suggest that Captain Polhill Turner took a dislike to the defendant, and was ready to turn against him when the defendant wanted to be identified.

Let us see what was the word of command he is supposed to have given. He is asked in cross-examination:

'As a matter of interest, let me read you an answer you gave to my learned friend. This is not one embarrassing you, but what you said to Mr. Giffard. You were asked as to some incident about Captain Polhill, and you said, "Captain Polhill had forgotten his word of command; he could not draw the cavalry out, and I happened to think of it, and took them away, and, of course, he got reprimanded for it." "You happened to think of it?"—I did not think of it, I happened to see it. I drew the troops out, my Lord. The Foreman.—We had better have that over again, Mr. Giffard.—Will you be kind enough to say that over again to the jury? The Witness.—We were hemmed in against the barrack walls—the troops were—and Captain Polhill had forgot the word to give to draw them out, to take them out, and there was an orderly officer sent over to ask again what the word was, and during his absence it occurred to me, and I gave the word of command, not thinking of giving it to him for the moment.' I did it on the spur of the moment. I have no doubt I ought to have given it to him, and let him say it, but I gave the word of command, and withdrew the troops. What word of command did you give?—Wheel three to the left. And that extricated the troop from its difficulty, did it?—I am not certain at this moment, but think it was "Wheel three to the left." But surely this is a matter that Mr. Giffard asked you about. Cannot you tell me whether it was "wheel three to the left." Was that it?—Yes, I believe it was. Will you swear it was? Will you swear that?—Yes. That you will swear?—That I will swear. Did that make them go on or go back?—Really I cannot understand. That you cannot tell?—No, I cannot understand what you mean. Cannot you? Going forwards is going forwards, and going back is going back. What was the effect of this word of command? If the horses are facing you and you call out "Wheel three to the left," which way would you be going, forwards or backwards? I say, did they go forwards or backwards?—I do not understand what you mean, and nobody else either. What is the word in the cavalry for going back? What do you do when you desire a troop or a squadron to go back? What do you call it? What does the officer who gives the

word of command do?—Do you mean to retreat? No, that is just what I do not mean. What is the proper word?—Not “retreat” is it? What is the proper word for retiring a troop back?—I do not understand what you mean. You do not understand me?—No, certainly I do not. If you wanted to back a troop, of course you would wheel them round and take them back. And what would that be called in cavalry language? What would you be said to be doing to that troop?—(No answer.) You cannot tell me?—No, I certainly cannot.

Now, Captain Polhill Turner repudiates this story altogether; but then he assumes, from the order in which the questions concerning the matter were put, that it was an inspection at Clonmel by General Macdonald. He says that, so far from being reprimanded on that occasion, the General complimented them on the way in which evolutions had been performed. Therefore, he considers this statement of the defendant a gratuitous lie. I think, however, that defendant was speaking of an inspection at Cahir. There were two inspections by General Napier at Cahir; one in May, with regard to which Roger writes in a letter of that date that the General was very much pleased. There was another in October, and then the squadron of which Captain Polhill Turner's troop formed a part does seem to have got hemmed up against the wall and to have been unable to get out of the situation satisfactorily. That was in 1860. This did not happen, however, to one troop, but to the entire squadron, and several witnesses say it arose not from the commanding officer forgetting the word of command, but on account of his not having given it time enough. Captain Custance, and not Captain Polhill Turner, was in command, and you will ask yourselves whether, there being two captains and a lieutenant above him, it would accord with any reasonable man's notion of military discipline that the cornet, who, as I am reminded by my learned brother, had always a difficulty in giving the word of command, should take on himself to give the order and so withdraw the squadron.

Well, Roger went to Clonmel, and from Clonmel he went to Waterford. The defendant says that Captain Polhill Turner left to be married to a daughter of Sir Henry Winston Barron, and that thereupon he obtained charge of the troop until he handed it over to Captain Bickerstaff. Colonel Bickerstaff denies having received charge of the troop from Roger Tichborne. We know that on the 14th of December Roger got two months' leave of absence, and that it was during those two months that all the scenes occurred at Tichborne of which we have heard so much as to his cousin Miss Doughty. He rejoined on the 14th of February, but not at Waterford, for his letters from that time are dated from Clonmel. There was a good deal of cross-examination as to his knowledge of Waterford. He is asked:

‘What sort of a place is Waterford; are there any buildings that you recollect?—No, I do not recollect any buildings. Is the river there?—The sea is there. The sea at Waterford?—Yes, it is on the sea coast. Did you use to bathe in the sea there?—No, I do not think so. I may have done, I do not recollect.’

A few days afterwards the questions on this subject were renewed:

‘Is there a river at Waterford?—There is rivers at Waterford. Yes, you have told me about that. Do you remember a bridge there?—There

are several bridges there. A particular kind of bridge?—Yes, I think there are stone bridges, to the best of my recollection.’

We know that there is but one bridge at Waterford, and that is of wood. Well, the regiment goes back to Dublin and is dismounted with a view to proceeding to India. In June the regiment left Dublin, and that brings us to the end of Roger Tichborne's life in Ireland.

And now let me call your attention to this piece of evidence. From the time Roger went to Ireland till he left it he kept up a constant correspondence with his aunt Lady Doughty, and you know what that correspondence was. It was a correspondence of a most interesting character, touching subjects the most important and interesting that a man could well discuss—religion, morals, habits of life, above all, the love which clung to Roger Tichborne's heart for his cousin Miss Doughty. In that period of two years and seven months there passed between those parties 96 letters, which have been preserved, and the probability is that there was more, so that we may put the correspondence at least at 100 letters, which would import a letter from each party upon an average every fortnight, upon the most interesting and affecting subjects. Would the recollection of that correspondence as long as memory lasted be effaced from the mind of the man who took part in it? And when the question is asked, what does the defendant say:

‘Did you while you were in Ireland keep up a correspondence with friends in England?—I have no doubt I did, but I am sure I did not remember. Who did you write to?—I do not remember who I wrote to. Did you to your father to France?—Certainly. To Lady Tichborne?—Yes. Did you to your relatives in this country?—I wrote several letters to Mr. Gosford, I think, and to other people. I really cannot remember who I wrote to. I ask you about your relatives?—Very probably I did. I do not remember. Did you or did you not?—There is no doubt I wrote one to Mr. Henry Seymour. To anyone else?—I wrote to Henry, I know. To anyone else?—Really, I do not remember who I wrote to. It is quite impossible for me to say. Did you write to Sir Edward Doughty?—I do not remember doing so. Did you write to Lady Doughty?—I do not remember doing so. I should think the probability is that I did. Did you write to your cousin?—I do not remember whether I did or not. Surely you can tell whether you wrote to Miss Doughty during those three years?—I do not remember whether I did or not. I should think that the probability is that I did, but I am not certain. Did you ever receive letters from her in Dublin?—I do not think I did. I do not remember doing so. Did you have any letters from Sir Edward Doughty?—Not from Sir Edward Doughty, I don't think. From Lady Doughty?—I might have done, but I have no recollection of it. (Question repeated.)—It is almost certain that I did. Can you not recollect for certain whether you did or not?—I have no recollection of it. There is no doubt but what I did, but I have no recollection of it. I do not think it is at all probable I should have been there any length of time without hearing from them. I do not want to catch you. I ask you, cannot you recollect for certain whether while in Ireland you heard from Sir Edward Doughty, Lady Doughty, or your cousin, Miss Doughty?—No; I have no recollection of having received a letter from them.’

Well, gentlemen, I do not know that in the whole range of the case there is anything, to my

mind, so strange as that, and the question is whether, as sensible men, you can believe that such a correspondence as that could have passed from the memory of the living man. The defendant does not recollect having written or received a single letter, and yet in that correspondence is included letters from Lady Doughty upon a subject which was the closest to the heart of Roger Tichborne—the hope of marrying his cousin, with whom he was at that time so deeply in love. I know no better test that could be put to the memory of any one than that, and you will judge of the effect of the answer given by the defendant upon a matter as to which he was most fairly and properly cross-examined, in considering whether, in your opinion, he is Roger Tichborne or not.

Upon looking back to the defendant's examination, I cannot help thinking there were some questions put to him the answers to which it would be unfair to take as a criterion. They were put by one apparently not cognisant of military matters, but it was not to be expected that the Attorney-General should have the knowledge of a military officer. Still, certain questions were put which are so elementary that you cannot conceive how a person who was three years in the army could have failed to answer them. In cross-examination a passage is read from the Queen's Regulations, and the defendant is asked what the book is, and whether it is not a book which every officer in the army would know at first sight? He does not know it. Then he is asked, 'Is it not to an officer what the Bible ought to be to a young child?' And his answer is, 'I don't know anything of it.' Then he is pressed as to what is this book which is called the Queen's Regulations, and he says, 'Certain regulations put down by which an officer should know what a regiment is.' And now comes a matter of which I think most civilians are aware, and which, certainly, one would have expected an officer of three years' standing to know. 'How many squadrons were there in your regiment?' He answers, 'There were seven different troops.' That's a mistake, for there were but six. Then he is asked, 'How many squadrons? Do you think a troop and a squadron the same?' He answers, 'I believe they are.' The Lord Chief Justice repeats the question, 'Do you think they are?' And he says, 'Yes.' The fact is you form a squadron by uniting two troops, and is it possible that a man who had been three years an officer would not know that? Then the defendant is asked, 'How many men in a troop?' To this he answers, 'Certainly some troops had more than others.'

'What was the average number in the Carabineers during the three years you were in the regiment?—I have no recollection. From 100 to 150 I should think in each troop. It might be more. And there were seven troops?—Yes, there were seven troops. Then the Carabineers in your time were something like 900 strong?—Well, between 900 and 1000.'

Now, gentlemen, we know very well from Captain Maunders that the regiment consisted of six troops, with 55 men and 45 horses in each troop, there being always a greater number of men than horses, as there are supernumeraries, servants, and others who are not mounted. That would make the strength of the regiment 330 men and 270 horses, so that the defendant makes it exactly three times that which it really amounted to. That indicates a total absence of the knowledge which you would expect to find in an officer who had been for three years in a cavalry regiment.

Then he is asked about 'close and open order,' which he explains to consist of 'the distance between knee and knee, between man and man,' not the distance between rank and rank, which it really is. The adjutant of the regiment and the officers say it is not the lateral distance between man and man, but the relative distance between two ranks.

The learned counsel for the defendant says, 'Ay, but you must not be surprised at the defendant manifesting ignorance on those points, because Roger Tichborne never mastered his drill, and, therefore, if he had been asked those questions even at the time he was in the army he would not have been able to answer them.' That might be a very good explanation if the evidence before us bore it out. It is true Roger Tichborne was an inefficient officer; though with an inclination for the service, he appears to have had no aptitude for it, and when he was mounted he broke down in attempting to give the word of command. But we have the positive statement of Colonel Bickerstaffe, the adjutant of the regiment, who took the greatest pains with him, having taken a liking to the young man, and used to teach him in his own room with pieces of cardboard, that he knew his drill in theory very well. Besides, the questions which the defendant was asked are not about complicated matters, but simply about elementary things. I cannot suppose, therefore, that Roger Tichborne would not have known about them, and if he ever did know, do you think he could entirely have forgotten everything concerning them?

Then there is another remarkable instance of defective knowledge. It seems that while the defendant was visiting Colonel Lushington he met Captain Williamson, of the 60th Rifles, and that gentleman asked him whether he remembered his being quartered in Dublin, in the 2d Battalion of the 60th, not mentioning 'Rifles,' but assuming that any one acquainted with military affairs would know that the 60th was a regiment of Rifles. The defendant, according to Captain Williamson, did not recollect it, but he asked whether the battalion was quartered at Portobello, or at Island Bridge Barracks. 'I said no,' says Captain Williamson, 'Island Bridge Barracks is a cavalry barracks.' 'O, then,' says the defendant, 'yours is not a horse corps.' The explanation of this mistake, which one would suppose no officer that was ever in the army would have fallen into, is that the defendant looked upon Captain Williamson as an officer of the Artillery, and as there are horse and foot Artillery, he thought the battalion to which Captain Williamson belonged might have been quartered in a cavalry barracks. Upon this he is cross-examined.

'Do you know Captain Williamson, Sir Hedworth Williamson's brother?—Yes, I think so. Did you meet him at Colonel Lushington's at Tichborne?—If it is the person I mean I met him the other day. Did you have some conversation about military matters with him?—I think not; no. Will you swear you did not with Captain Williamson, Sir Hedworth Williamson's brother? Really I do not recollect what was talked about. Do not recollect what?—I do not recollect what we spoke about. Did not you speak about military matters?—I think not. Will you swear you did not?—No, it is very hard for me to swear I did not. You said you only met him the other day; you told me that yourself.' 'If he is the man I mean?'—Just so. Assuming for a moment

it is the same man, you met him only the other day; cannot you tell me whether you did talk about military matters?—Well, really I cannot; I was not aware you intended to have our conversation repeated here, or I would have made a note of it. Was his regiment, do you know, ever quartered in Ireland, near to or close to the Carabineers?—Yes. Had you some conversation on that subject with him and Mr. Liddell?—Well, I think we had. Have you any doubt? Did you speak to him about the horses of the 60th Rifles?—No, that I certainly did not. That you swear?—Certainly I swear it, because the man I mean was not in the 60th Rifles at all. Did Captain Williamson say, "Horses! why, we are an infantry regiment!" and did you say, "O, are you? I thought you were a horse troop?" Will you swear that did not pass?—I certainly could swear that did not pass, as I am quite certain it never did. I ask you whether you ever had any conversation with a young officer of the 60th Rifles?—Captain Williamson called on me, and I certainly had a conversation with him, but if you are speaking of a person belonging to the 60th Rifles, he might belong to the 60th Rifles now. I do not know, I am sure; but the person I am speaking of belonged to the Artillery.

Then I put a question to Captain Williamson as to whether the defendant may not have been speaking of the Horse Artillery, but Captain Williamson says, "He gave me to understand it was the 60th Rifles he was speaking of."

Then there is another most striking matter. We recollect not only that an application was made to Lord Fitzroy Somerset for a commission for Roger Tichborne, but that Mr. Seymour, at the close of 1848, took him to the Horse Guards and introduced him personally to Lord Fitzroy Somerset. You will remember, too, that when the commission did not come as soon as it was expected, Roger, instead of asking some one of his friends, some one of rank and position, to write on his behalf, took the bold step of writing to Lord Fitzroy Somerset himself—a thing which, perhaps, few young men would have ventured to do. He got an answer directly from Lord Fitzroy Somerset. The defendant is asked whether he ever had anything to do with Lord Fitzroy Somerset. "Lord Fitzroy Somerset?" he says, "no, I think not. Who was he? I don't know, I am sure. I suppose he would be some relative of the Duke of Somerset." Now everybody at all acquainted with the class to which Lord Fitzroy Somerset belonged, or who had been at all in the world, would know that Lord Fitzroy Somerset would be a brother of the Duke of Beaufort, whose family name is Fitzroy, while the family name of the Duke of Somerset is Seymour, or as they now call it, St. Maur. I can understand that a young man who passed the first years of his military life in Ireland and then went abroad, might not have been aware of the distinction of these family names. I, therefore, pass that over as an unimportant fact. But when the defendant is asked twice if he can tell who Lord Fitzroy Somerset was, and answers, "I think not; I have no recollection," is it possible to reconcile that answer with the fact that Roger did himself address Lord Fitzroy Somerset in order to get his commission, and that he did get the commission from him?

But it does not stop there. Lord Fitzroy Somerset served during the Duke of Wellington's campaigns as his military secretary, and was attached to him from the beginning. When the Duke died, only as a reward for his own military services,

partly as a compliment to the memory of his deceased chief, Lord Fitzroy Somerset was raised to the peerage under the title of Lord Raglan. That must have been known throughout the entire army, and I will venture to say there was not a mess-room in which it was not mentioned that this distinguished officer had received his fitting reward at the hands of his Sovereign. But that the memory of Lord Raglan should not slumber, Lord Raglan was appointed to the command of the army in the Crimean War, and though the defendant was in the bush in Australia at the time, I take it there was not a station out there, or any other aggregation of human beings, not even a camp fire, where the Crimean War was not spoken of, and where the name of Lord Raglan was not associated with his former name of Lord Fitzroy Somerset; and is it possible that any person who had been in correspondence with him, and received his commission from him, could have had the name of Lord Fitzroy Somerset so utterly effaced from his memory as not to know who he was? That is a point which is well deserving of your consideration.

And here, before we pass away from Roger Tichborne, let us take a fair review of his intelligence, education, and attainments. We have a list of his books, and many of them have, I think, been produced in Court. Among Roger Tichborne's books were the works of the great French dramatist Corneille, and as Roger was acquainted with Molière it is probable that he had studied Corneille also. The defendant is asked, "Do you know who Corneille was?" He says, "I don't remember. I don't understand what you mean." "Do you know what this book, the *Théâtre de Pierre Corneille*, is about?—I don't remember." He is pressed on the subject, and, as Pierre sounds very like père, the defendant jumps to a conclusion. He is asked, "Do you know whom it was by?" and he says, "It was by one of the Fathers." Do you think, gentlemen, Roger would have made such a mistake? Then he is asked about Gustave Beaumont, who wrote a work in Ireland, and he says, "I don't know." He is here asked one or two rather insidious questions, such as "Was he a friend of yours?" "Did you know him?" Then comes a word about René. A passage was found in the handwriting of Roger Tichborne which may be translated in these words: "I admire the life of René; he knew how to endure his sorrows and to keep them to himself. He retired from all his friends to be more at liberty to think about his sorrows and misfortunes, and bury them in himself. I admire that man's courage—that is to say, he had the courage to carry his own sorrows to the grave." The defendant is asked about this passage, and he says, "It is an extract from St. Nicholas." He is asked, "Who is St. Nicholas?" and he answers, "One of the saints;" and he goes on to say in reply to further questions that the book is written in both English and French. "It is the life of St. Nicholas the saint." The extract in question is from the work of Chateaubriand. But one may well ask what put St. Nicholas into his head.

The learned counsel for the defendant has a very ready answer. He says, "No wonder that St. Nicholas should have been uppermost in the mind of the defendant, because Roger, when a boy, went to school to M. Dupanloup, and St. Nicholas is the patron saint of little boys who go to school. True it is that the defendant has lost the faintest trace of having gone to school; but though he has forgotten that, the memory of the saint who was his patron when he was a little

school-boy remains impressed on his memory. And that was because St. Nicholas was such a saint—the saint of saints in respect of observing the ordinances of the Church (the learned counsel seems to have spent his life among the saints, he is so well acquainted with them)—‘because,’ says the learned counsel, ‘when he was an infant at the breast he distinguished between fast days and other days, and would not take the breast on Wednesdays and Fridays.’ I don’t want to say anything ludicrous, but it strikes me that he was a sucking saint after all.

The defendant, on being further pressed, says that René was an old King of France. He is then asked whether he had read *Anne of Geierstein*. The fact is, René was Count of Provence, but that is a thing which he might very well have forgotten. He is asked about the Koran, whether it is in Latin, Greek, or Hebrew, and he cannot tell. He is asked who Cromwell was, and he says, ‘He was the Commonwealth, was he not?’ which was very near the mark. He is asked about the life of John Bunyan, and he says, ‘I forget.’ Then he is asked what sort of a fellow John Bunyan was, and he answers, ‘Well, I should think quite the reverse of what you are.’ But he does not remember who he was. He is asked, was he a sportsman, and he replies, ‘You may ask me as many foolish questions as you like. I have told you four or five times I don’t know.’ Well, there are few people who have read anything who don’t know who John Bunyan was, and who are not acquainted with that work which will last as long as the English language lasts, and by which the name of John Bunyan will be perpetuated. There is no one who wishes to know what pure, unmixed, undefiled English is who will not study the work on that account, as well as for the contents of that most charming allegory. I think if Roger Tichborne had read the *Life of John Bunyan*, and his great work is in the list of his books, he would not have forgotten it. We know Roger read *Molière*, and among other plays of his the *Misanthrope*, and that he discriminated between the two principal characters. There is a letter from Lady Doughty in which she speaks of the man of the world and the man who hated the world, and prefers the former. Roger took the opposite view, and he was very apt when in gloomy spirits to call himself a misanthrope. In 1849 we find this reference in one of his letters: ‘Everybody is gone out of town. Lucky for me. I am a misanthrope,’ &c. He understood, therefore, the meaning of the term. The defendant is asked, ‘Do you know what it is—whether a girl, a beast, a fish, or what?’ He answers, ‘Well, I think I made allusion to it once with regard to some book.’ ‘What is a misanthrope?’—‘I’m sure I can’t tell.’ The defendant does not know the meaning of the word at all. That is very striking, considering that Roger Tichborne was in the habit of using the term repeatedly.

But there still remains the most striking instance of all, of the absence of knowledge or of memory, and you will at once understand to what I allude—namely, his total loss of the French language, for it amounts to a total loss. Up to the age of 24 Roger Tichborne spoke French by choice. An attempt was made by Serjeant Ballantine to account for the defendant’s loss of the French language by supposing he had abandoned the use of it. The defendant was asked whether he continued to speak French at Stonyhurst, and he said, ‘No, he was not allowed to correspond in French.’ But the evidence proves directly the

contrary. The letters of Roger to his mother until 1847 were written in the French language; in bad French, no doubt, but still in French, and we have a large body of evidence to show that up to the time he left this country he preferred to speak in French rather than English. When he was in Paris the language of the family was French, his mother preferred it, and Mr. Alfred Seymour and Mr. Danby Seymour, who are both French scholars, say that Roger preferred it too. That he kept up his acquaintance with French literature we know; he used to read French novels. He went out to South America in a French ship, and used to talk French with the captain and officers. When Roger Tichborne was about to go to Chili, and Moore was unable to continue his attendance, we know he engaged a French servant, and kept him until he was no longer able to go with him, when he took another French servant, Jules Barras, who remained with him until he went on board the *Bella*. Therefore, Roger Tichborne had full opportunity of speaking French, and the whole body of evidence leads us to the conclusion that to the last Roger Tichborne spoke French as well as the day he left Paris. It was the language of his preference, his mother tongue. He learnt it from his first commencing to articulate words at all, and it was the language of his choice to the very last. Could it have been wholly and entirely forgotten? And this question is the more pertinent as we find that the defendant can speak a language which he learnt from a stay of a year or a year and a half in a foreign country.

There was a witness who could have told us whether Roger Tichborne spoke French or not, one who was with him at Santiago before he took his course across the Andes, and who must have known whether Roger spoke Spanish at all; and if I had the power as a Judge of this court I would have him called to answer that question. He was produced at the last trial: he was brought into court, but was not called. He ought to have been called, and it ought to be in the power of a Judge to insist that a witness shall be called, and I hope our criminal procedure will not be considered what it ought to be until the Court has power to call witnesses whom either side is not disposed to call.

We know that Roger took a Spanish dictionary and grammar out with him, and that he studied Spanish on board the *Pauline*. But the most remarkable circumstance of all is that the defendant, if he be Roger Tichborne, should have entirely forgotten French, the language of his childhood, of his boyhood, and of his youthful life up to the time he went on board the *Bella*, and yet should remember the little Spanish he picked up.

Now comes a great question, whether it is morally and intellectually possible for a man to forget the mother tongue which he has spoken to the age of twenty-four? I know instances have been brought forward of persons having totally forgotten their mother tongue in consequence of residence in another country. I should like to be better acquainted with the particular circumstances of each case before I accepted this statement as a statement of fact. I believe most of those statements are apocryphal. There is nothing in the world impossible, and far be it from me to lay it down as impossible because within the range of my experience it has not occurred; but this I will say, the instances in which a man could forget the language of his childhood, of his boyhood, and his manhood because he had lived in another country ten or twelve years must be most exceptional, and they are such as one would

hesitate indeed before he would accept. If such a case has never occurred before in the whole of our experience, it must be taken as an exception to a great and uniform rule. That Roger Tichborne has lost the French language I do not say is impossible, but this I do say, it savours of the highest improbability. In considering whether such a thing is possible, you must take into consideration all the surrounding circumstances. Therefore, when I say I do not accept as conclusive the accounts which we sometimes hear of this person or that person having lost the recollection of the language which he once spoke, you must consider whether the observation applies to a person with a strong memory or a weak one. Here is a man who recollects after so many years every person he was acquainted with in South America, and gives the names of no fewer than some fifteen of them; here is a man who, if his knowledge is not adventitious and derived from extraneous sources, has shown such marvellous instances of tenacious memory and of the use of a language not acquired when he was very young, while his mother tongue has entirely faded from his recollection. The matter is one entitled to your most serious consideration, and I should not be doing my duty if I did not fully impress the importance of it upon your good sense and your conscientious desire to do your duty.

And next I must call your attention to the various letters written by Roger Tichborne as the subject of the disposition of the estates, and to the facts which have been brought before you in evidence relative to that subject. The first question is, did Roger Tichborne thoroughly understand the disposition of the Tichborne property and of the Doughty property as fixed by the settlements relating to those two separate properties; and, next, did he understand the disposition of the Doughty estate made by his will in 1852? The Tichborne estate at the time that Sir Edward Doughty was alive stood settled thus. It was settled on Sir Edward Doughty for life, with remainder to his heirs in tail male. But Sir Edward had no son, and there was no probability of his having a son. It was next to go to Roger Tichborne's father, Mr. James Tichborne, for life, and then to Roger for life, with remainder to the heirs of Roger's body in tail male; then to Alfred, his brother, in case of the failure of heirs male of the body of Roger Tichborne. In case of Alfred Tichborne not having issue male, it was to go to James Dormer, in the same way, for life, with remainder to his heirs in tail male. There were charges to the extent of 60,000*l.* on the estate, a very heavy charge on a property of from 5000*l.* to 6000*l.* a year. By the settlement of 1850 the Doughty estate stood settled in a very different way. There Sir Edward Doughty took for life, with remainder to his heirs in tail male: but, as there were none, the life estate would come to Mr. James Tichborne on Sir Edward's death, with remainder to Roger in fee. Roger Tichborne, therefore, having a remainder in fee, could deal with the estate exactly as he pleased, subject always to his father's life estate, who would be entitled to the whole benefit of it for life, subject to the charges upon it, which were very heavy. There were charges of 8000*l.* in favour of Miss Doughty, and of 10,000*l.* which Sir Edward was to dispose of by will. There was a charge of 100,000*l.* raised for the purpose of clearing off the incumbrances on the Tichborne estate, and then the residue was to be applied to the pur-

chase of land in Hampshire. Roger made a will, and by it he gave his brother Alfred an income of 2000*l.* a year out of the estate, to be raised to 3000*l.* a year in case of his marriage. He directed the residue to accumulate to pay off the heavy charges upon the estate.

The Lord Chief Justice, having explained minutely the various other provisions of the will, proceeded:

Now, we observe that the leading distinction between the two properties was this—that the incumbrances were to be cleared off the Tichborne estate by being put on the Doughty estate; and that whereas Roger Tichborne could not in the slightest degree affect the settlement of the Tichborne estate, he had the power, and he exercised it, of disposing of the Doughty estate according to his own will and pleasure. If you are of opinion that Roger Tichborne thoroughly understood the disposition of the Tichborne and of the Doughty properties, then the question will be whether you find in the statements of the defendant a knowledge of those matters equal to what you would expect to find if you had an opportunity of interrogating the undoubted Roger Tichborne.

The first assertion of any knowledge on the part of the defendant with respect to the Tichborne property was given at Wagga Wagga. There he tells Mr. Gibbs he had inherited from his father an estate in Dorsetshire called Hermitage; that it was entailed, and in the event of his death would go to his cousin. In this statement there is no reality. His father never had an estate in Dorsetshire or anywhere else called Hermitage. Then we come to the Wagga Wagga will, and we find him disposing of property which had no existence whatever. He disposes of property at Cowes and at Ryde, in neither of which places had he a stick or a stone. He disposes of property at Wymering, in Hampshire, at which there was no property of the family whatever. The learned counsel for the defendant suggested that at some remote period the Tichbornes had property at Wymering, and he promised an explanation, but we did not get it. If the Tichbornes had property there at some remote period, the probability is that Roger Tichborne never heard of it. In short, the defendant in that will displays the most absolute ignorance of the property which belongs to the Tichborne family. How comes it to be so? The defendant was called on to make his will; he could not get money from Gibbs unless he did. Of course he could not make a will without professing to dispose of his property; and if he did not know the property, it was necessary to draw upon his imagination for the names of places to insert in his will. But the defendant says, 'I will give an explanation which will be consistent with the fact that I am Roger Tichborne. I wanted to deceive Gibbs.' But why run the risk of being considered an impostor? What harm could it do him to put in the real names instead of fictitious ones? Is the explanation of the defendant one which to your minds, gentlemen, is satisfactory? If you do not think so, then you have on the defendant's part a total ignorance of the properties which Roger Tichborne had to dispose of. Then, when you come to a later period of his stay in Australia, you find him writing about the Upton property as if it had been bought by his uncle Doughty. I have on a former day explained to you that was a mistake into which Roger Tichborne could have never fallen, but that the defendant was perhaps led into the misapprehension on that point by an error of Bogle.

So matters stood until the defendant comes to this country, and then he is asked about it. One of the earliest questions put to him by Mr. Gosford at their meeting at Gravesend was, 'Who made your will?' We know it was Mr. Slaughter, but the defendant says, 'Hopkins, of course.' When at Alresford, he probably learnt that Mr. Hopkins was the family solicitor, and therefore concluded that he must have made the will. Mr. Gosford's question, 'Who made your will?' implied that Roger Tichborne had made a will; so the next day Mr. Holmes and the defendant go to Doctors' Commons, and find Roger Tichborne's will. He was asked in examination how long before he left the country he had made the will, and he says it was a long time in execution. He thinks it was two or three months before he left, and he remembers he signed it at Canterbury. But we have the evidence of Mr. Slaughter's clerk, who was an attesting witness, that it was signed in London, and he goes on to say that he was never in Canterbury in his life. But there is another circumstance which shows it was not executed at Canterbury. The will was executed on the 16th of January, and Roger came to town on a week's leave on the 14th, and it is not likely that he returned to Canterbury two days after and signed the will there. When asked about the will, he says, 'I have seen the will in charge of two gentlemen at one side of a table, and I at another. I merely sat down, and they tested me, and asked me several questions, and compared my signature.' I don't know whether any of you were ever at Doctors' Commons; but if so, you must know that this statement is inaccurate. Any one can get to see a will by paying a shilling fee; and if you pay your shilling, you have every opportunity of seeing it. The clerks do not test you, or attempt to prove your signature. They have too much to do for that. The defendant adds, 'I don't think I ever saw the will since.' At all events, there was a copy of it in Mr. Holmes's office, and if Mr. Holmes did not show it to the defendant, that he discussed the contents of it with him is a thing that cannot be doubted. He told Mr. Gosford that Hopkins made the will, but in cross-examination he said he got Slaughter to make it. That information must have been got after his statement to Mr. Gosford, if Mr. Gosford's evidence is true; and that, gentlemen, is a question for you.

Well, having gone to Doctors' Commons with Mr. Holmes; and Mr. Holmes having taken a copy of the will, we may suppose the defendant would have some means of gathering information about it, because when the defendant was introduced to Mr. Hopkins I suppose he must have understood what the disposition of the property was, otherwise I presume Mr. Hopkins would not have adopted him. But if the defendant did possess this information when he was in communication with Mr. Hopkins, he had not the most distant idea of what the disposition of the property was when he came to be examined in 1871. The first thing that is remarkable before that examination is a letter which he writes to Rous in January 1867, in which he says:

'You know I expected to find in Mr. Gosford a friend, but when I arrived in London from your house I found that, instead of being a friend, it was no other than Gosford who swore positively that I was dead, and that I died on the 26th of April 1864, and by so doing they deprived my father and mother out (sic) of any of the Doughty estates.'

I suppose what he means by that is that Mr. Gosford proved his will, and that by so doing he deprived his father and mother of the Doughty estate. There was never such a complete mistake in the world. His father enjoyed every shilling from the Doughty estate except the charges upon it to the day of his death; and, being able to charge the estate for the benefit of his wife, created two charges in her favour amounting to 2000*l.* a year; and at the time this letter was penned Lady Doughty was enjoying this money, and she allowed the defendant 1000*l.* a year out of it. In cross-examination, having said that he had not seen the will, but knew the general purport of it, he is asked what the general purport of it was? The answers that he gives are pregnant with matter. 'The general purport of the will,' he says, 'was to get rid of the 100,000*l.* that was put on the Tichborne estate.' There was not a shilling put on the Tichborne estate. The 100,000*l.* was raised on the Doughty estate in order to pay off the incumbrances on the Tichborne estate. Then he says there was a reserved fund formed by the will. There was such a reserved fund, but it was not raised from the Tichborne, but from the Doughty estate. Then comes this strange statement, 'I formed a sort of reserved fund by entailing my father.' What can he mean by 'entailing his father'? Why, from the beginning to the end of the will his father's name is never mentioned. He says, 'I so arranged it with my father that he would have 8000*l.* a year out of the Doughty estate, and the rest went to the accumulated fund.' There was no provision for his father at all, nor was it possible that he could have made any such arrangement. Roger Tichborne could not restrict his father to 8000*l.* a year, nor does he attempt it. It is quite clear the defendant had some way or other got into a maze of confusion upon this subject. Now I ask you to consider whether you think Roger Tichborne could have fallen into that state of confusion. Did Roger Tichborne understand the provisions of the settlement and the provisions of the will as affecting the Doughty estate? We have the very best authority for believing that he did, and if so, and if you find this chaotic state of confusion on the subject in the mind of the defendant, you must say, gentlemen, whether he can be Roger Tichborne.

Now, just let me refer to one more incident connected with this will before I pass away from it altogether. You will recollect that when Roger Tichborne learnt—as he did by some of the letters written to him when he was in South America—that Everard Arundell had become a priest, he, not being lawyer enough to know that a will cannot be altered except by an equally solemn instrument, wrote home to desire that the name of Everard Arundell should be struck out of the will. That was because he said he objected to a Jesuit priest having power to dispose of the property. Is that a thing a man would be likely to forget if he were interrogated on the subject? The defendant is asked:

'Did you ever make any addition to the will, any codicil?—No, I never remember making any. Did you make any alteration in it?—I don't remember whether I did or not. Did you contemplate making any?—I can't say, I am sure. I know I went to Mr. Slaughter. Did you make any alteration, or contemplate making any, after you had signed the will?—I believe I did contemplate an alteration after I signed it. What I want to know is whether, after the will was signed, you contemplated making any alteration?—'

don't remember whether I did or not. Can't you remember whether there was any one whose name you wanted to strike out?—I can't recollect. Are you referring to the Nangles? Was anything done about the Nangles?—I can't say; I have no recollection.'

Then there is a long examination as to whether he contemplated doing anything for the Nangles; and then, as to Gosford, he is asked:

'Do you recollect a communication, written or verbal, made to Mr. Gosford on the subject of an important alteration in the will as regards the disposition of the property?—I have no recollection of that. Did you desire to make any alteration in their favour?—I am under the impression that I spoke to Mr. Slaughter about it. Was there any person at all, either your cousins the Arundells or any other branch of the Tichborne connection, either before you left England or after, in respect of whom you wished to make any alteration?—Certainly not after. Will you swear you did not communicate with Mr. Slaughter or with Mr. Gosford on the subject of an important alteration in the will?—To the best of my belief I did not write anything about the will after I had left England.'

It is a fact that Roger Tichborne did leave by his will certain property to his cousin James Dormer. He left him property which had been bought out of the Doughty funds in the neighbourhood of Tichborne, and which property consequently formed part of the Doughty estate. He left that to James Dormer. When the defendant is asked about James Dormer, he says he cannot forget that because it gave rise to a quarrel between himself and Mrs. Nangle. He states that 'Mrs. Nangle was sister to my father, and she thought her son ought to have it. She has never forgiven me, even to this day.' This would account for Mrs. Nangle's taking part against the defendant, and with a view to suggest a motive for her conduct he gives prominence to the subject. He is asked: 'Did you and she fall out about it?' and he replies: 'She came down to Mr. Hopkins's one day, and we had a few words about it.' This implies that Mrs. Nangle had become aware that he had made a disposition of this property in favour of James Dormer, who, under the settlement of 1844, was to take the Tichborne estates in the event of the failure of issue of Roger and his brother. However, it occurred to the defendant that, as the will was a secret will, Mrs. Nangle never could have known of his having made a disposition in favour of James Dormer. Accordingly, he says:

'I think I am going rather too far. I should like to explain myself. I do not mean to say she had a row with me, because she did not know who was in the will; she had a row with me because she wanted me to make a will in favour of her son at Mr. Hopkins's. I did not tell her I had made a will; and she has not forgiven me to this day.'

In reply to further questions, the defendant says:

'What we fell out about was this. She came down and wanted me to make a will in favour of her son, and I said I would not make a will. I went away without making a will, and for that she has never forgiven me.'

Then he is reminded of having said that he had a few words at Mr. Hopkins's, and that he went a little too far, and the question is put to him:

'Did she urge you very much to make the will in favour of her son?—Yes, she did; and I refused to make it.'

This statement is positively contradicted by Mrs. Nangle. She calls it 'a most dreadful falsehood,' and says she never was at Mr. Hopkins's in her life; she never had a word with Roger Tichborne about making a will, and she never met him at Mr. Hopkins's at all. When could this have happened? According to the defendant, he had made his will at this time—namely, on the 16th of June 1852—and the only occasion on which he could have had this discussion with Mrs. Nangle must have been after that, and for this obvious reason. Mrs. Nangle lived at Boulogne, and she only came over to this country to stay at Tichborne in that very month of June. Roger was down there from the afternoon of Saturday, the 19th, to the morning of Tuesday, the 22d. On the Monday, if we are to believe the other part of the story, he was engaged with his cousin, Miss Doughty, and how he could have been at Mr. Hopkins's the same day and have had this discussion with Mrs. Nangle I am at a loss to see. The defendant further says:

'I saw Mrs. Nangle once after that. We parted, but not exactly on bad terms, or I should have openly shown it. She knew I never had any great love for her. I cannot say we parted on good terms.'

Here again the defendant is contradicted by Mrs. Nangle. She says that she and Roger were always on the best of terms, and, as far as we are aware, there was no reason why they should not be. The defendant says they parted on cold and distant terms, but, according to the evidence of Mrs. Nangle, they never formally took leave of each other at all. When Roger Tichborne left Tichborne, on the 22d of June 1852, Mrs. Nangle had not the least idea that they would not meet again. Therefore, as regards this episode in reference to Mrs. Nangle, if you believe her testimony, this parting on cold and distant terms and the pressure put upon him to make his will in her son's favour must be pure invention from beginning to end—an invention only resorted to for the purpose of leading the jury at the former trial into the belief that Mrs. Nangle had taken part against him, and refused to acknowledge him as Roger Tichborne, because he had offended her.

That is all I have to say to you on the subject of Roger Tichborne's property, his knowledge of his property, and the dispositions of his will. This is one of the most important issues of this case—one of the best and most conclusive tests by which the identity of one man with another can be judged—whether, in respect of a thing so all-important to him as a knowledge of his property and the disposition of the estates to which he is the heir, and to which he is to succeed—whether the knowledge you think such a man ought to have possessed is or is not possessed by the man who comes forward and claims to be he who made that will and made those dispositions of his property.

Now I come to another part of this inquiry, which is, if possible, still more important than the last—I mean the relations of Roger with his cousin, Miss Doughty; and I take these relations in the first instance separately, and distinct from the question of the sealed packet. Indeed, this is one of the crucial tests to which your attention must be seriously directed: and I must ask you not to distract your attention by passing papers from one to another, otherwise I shall decline to go on with my address. This is one of the crucial tests for the following reason. I cannot submit the case to you in any other form than this—that

when a man has had a deep and passionate love for a woman which has ended in disgrace and disappointment, such a phase in his life will necessarily leave impressions on his memory which it is not in the power of time, under ordinary circumstances, ever to obliterate, and efface; therefore one of the most important tests as to the identity of the defendant with Roger Tichborne will be the degree of memory and knowledge which he manifests with reference to so important a subject.

Let us recollect what the relations between Roger Tichborne and his cousin, Miss Doughty, were. We know that the cousins first met after the period of childhood in June 1849, when Miss Doughty returned from the convent where she had been placed, and came to reside permanently at home. They had not been long together before Roger conceived an attachment for his cousin. In other words, he fell in love with her, and he took the opportunity of Lady Doughty coming to town with her husband and daughter, on their way to Scotland, in August of that year, to reveal under the seal of secrecy, and in perfect confidence, to Lady Doughty the fact that he was in love with her daughter. It is very clear from Lady Doughty's letters of that date that, if she did not actually encourage the attachment, she certainly did not discourage it. She writes to him constantly, referring time after time to the secret which he had imparted to her, and speaking in terms which certainly led him to suppose that his attentions to her daughter were by no means displeasing to her. It is perfectly true there was the objection of near relationship—an objection especially cogent in the minds of persons belonging to the Roman Catholic community. But Lady Doughty seems to have thought that in many respects it would be an eligible match; for, although she may not have made up her mind that the union should take place, she does not in any way put herself in opposition to it. Roger Tichborne joins his regiment, returns to Tichborne in the winter of 1849-50, and comes of age in the first week of January 1850. On that occasion he manifested a disposition to drink too much. Accordingly, when he goes back to his regiment we find Lady Doughty writing to him seriously on the subject, and from this time to the end of 1851 we have constant references to it in her letters. Misgivings arise in her mind as to his habits, and the probability of his getting over this unfortunate propensity to drink.

In the middle of 1851 Roger paid another visit to Upton, where his cousin then was, and where he again saw her. But at this time Lady Doughty seems to have given him very little encouragement indeed, and there were one or two other visitors who paid attentions to Miss Doughty, one of whom Lady Doughty was inclined to encourage, and so excited the jealousy and dissatisfaction of Roger. When he returned to his regiment he could but have had little confidence in the eventful success of his suit. At the end of that year, however, he got a couple of months' leave, and came to visit Sir Edward and the family at Tichborne; and on this occasion he discovered that his passion was reciprocated by the object of it. We know what happened on that occasion. Fluctuating between hope and fear, conscious that his cousin did not dislike him, but that, on the contrary, she received his attentions with pleasure and satisfaction, he nevertheless knew there were many difficulties and obstacles which might present themselves to the union he desired. He then left with Mr. Gosford the paper about which Mr.

Gosford has spoken, in which was recorded his vow to build a church, under circumstances which he stated. I am not at present anticipating the question whether this was the only document he left, or whether the statement of the defendant is true that he left a paper with the instructions which he says it contained. But that a paper was left with Gosford recording a vow to build a church is perfectly clear from the contents of two letters written by Roger Tichborne. In one of these, addressed to Mr. Gosford, he says: 'I will not build a church unless under the circumstances which I left with you in writing;' while in the other, addressed to Mr. Slaughter, he remarks, in reference to his will, that he also desires his private wishes and intentions to be carried out according to the paper he had left with Mr. Gosford.

At this time the attentions he was paying to his cousin having been brought to the knowledge of his uncle—in all probability by Lady Doughty—Sir Edward, sharing her objections, summoned his nephew to his presence. On a Sunday morning, the 10th or 11th of January, when the bells were ringing for chapel, Lady Doughty tells us Roger was summoned by his uncle to the library, and we know what passed. His uncle said he objected to any marriage between his daughter and Roger on account of their near relationship, and that it would be much better for the cousins to be separated; therefore, he requested that he would leave the house. Accordingly, Roger did leave the next morning. What his feelings were upon his uncle making this communication to him is disclosed in the first paper he gave his cousin. It has been read more than once, and I will not read it again. But no one who does read it can fail to appreciate the strong, passionate love that Roger Tichborne, however cold his nature may otherwise have been, had conceived for this young girl, or the anguish of mind and heart he underwent in having his relations with his cousin so abruptly put an end to. It is not only from that paper, but from contemporaneous correspondence, that one is enabled to see what was at work in his mind. 'I little expected,' he writes, 'three weeks ago, that my visit to Tichborne would be cut short as it has been; but, however, such has always been the case with me ever since I was born. It is not new to me, but not less painful.'

It has been said in the course of this case that there was no reality in the love of these two cousins for one another. Why that should be said I am sure I don't know. After reading the documents to which I have referred and the language of this letter, I cannot bring myself to doubt that this was a real and sincere attachment, which, if it had been allowed to run its course, and suffered to end in a union between these two persons, might have made Roger Tichborne all that could be desired. If he had evil habits it might have won him from them, made him a good domestic husband and father, and induced him to settle down and lead the happy and contented life of an English gentleman, blessed with everything that can make life a blessing and, at the same time, make a man's life useful in the sphere in which it has pleased Providence to place him. It was not destined to be. It was frustrated. I think the more pity, because there was good in the man, and a good wife might have brought out the good and exterminated the evil. It was thought then that there was an end to everything. No doubt it was well known in the house. The sudden and abrupt termination.

the courtship of the young heir, and the regrets that would be expressed, would very soon be talked about. There is never anything that deeply interests the interior of a family, especially if you do not wish it to be known beyond your own immediate part of the house, but is known in the servants' hall almost as soon as you know it yourselves. We cannot fathom this, but every one knows it is a fact. I will undertake to say that this was known in a very short time.

But, as it happened, that which was thought at the time to be a final termination of the intimacy between Roger and his cousin did not prove to be so. Sir Edward Doughty was taken with an illness which every one supposed would be a death illness, and Roger, as his heir and near relative, was sent for to take a last farewell of his uncle and to receive his dying blessing. We learn from Roger's letters that his uncle was supposed to be at the point of death. Roger wrote to his father to say that he hoped he would come over at once. The return of Roger Tishborne brought the two lovers together and revived their strong feeling towards each other, and they thought about the possibility of their future union. In order to secure the blessing of Sir Edward Doughty before he left this world, it was agreed that a last appeal should be made to him to implore his blessing on their marriage whenever it should take place. Roger went to make his application to the supposed dying man, and Sir Edward declares that if the same feeling continues between them when his daughter is of age, and if Roger gets his father's assent and the dispensation of the Church, he shall look on it as the will of Heaven and will consent to the union. Naturally, Roger would consider this as a settled thing, though the promise was a conditional one, no doubt. Lady Doughty herself appears at that time to have been an assenting party. It must have been clearly made manifest to her at this time that her daughter's affections were engaged.

Yet there was the same difficulty as before arising from the want of confidence which the parents had in Roger's habits. Lady Doughty had learnt from some source or other that he still continued to indulge in stimulants, and, unfortunately, on one occasion, while Roger was staying in the house, and sat up with his uncle, he took too much, and gave evidence of the fact, which caused Miss Doughty to expostulate with him. He gave her a promise never to touch spirits any more, and he seems for a time to have abstained from drinking, turned over a new leaf, and sought to become a reformed man. For a time Lady Tishborne believed in his assurances of reform, and seems to have allowed this conditional engagement between the two cousins to hold good. She writes several letters to him after his return to his regiment, in terms which quite convey her assent to the supposed relations which existed between the two cousins. Those letters contained fervid expressions of hope that he might steadily pursue the course of reform which he had entered upon, and point out that such conduct would not only have its reward in this world, but also in the next. But in the mean time there is evidence of Roger still continuing his habit of drinking, and we shall see what they led to hereafter.

On the 19th June 1852, Lady Doughty and Miss Doughty were in London, and Roger came up to town, and upon that occasion we find that he was struck with some show of reserve and coldness on the part of his aunt, and possibly also

on the part of his cousin. This may have arisen in the latter case from the advice of the mother, who would probably remind her daughter that, as there was no actual engagement between them, it would be necessary to be somewhat reserved, especially as they would be before the world of London. After their return to Tishborne, Lady Doughty writes another letter to Roger, in which she alludes to the coldness he has complained of, and again reminds him of the terms of the conditional engagements which had been agreed to. It is difficult quite to understand that letter, but what I gather from it is, that she would rather the marriage should not take place than it should. The inclination of her mind was against it, and yet she was not prepared to break the promise and conditional engagement made by her husband, while her confidence in Roger's promises of reform was so much shaken that she did not desire that the marriage should take place. That seems to have been the state of her mind; but, on the other hand, she did not wish to break with Roger, and she desired him, therefore, to state what his wishes were. She said, 'My daughter is to be perfectly free.' He seems to think that he is hardly treated, because he says, 'I never told any one what engagement might or might not exist between me and my cousin,' and reminds her that he had already told her what his determination was, and he says:

'Since I came back it has been my daily study to try to improve. I don't drink anything to what I used, and have much improved in this respect. If I find that my affection for my cousin, instead of decreasing, has become stronger, I shall always be too happy to oblige her in any way in my power, though I shall be most likely far away. I am in hopes of going to the Cape of Good Hope before long, where I shall probably remain two and a half years. I write to you,' he says to his aunt, 'in honour; at least, such has always been my wish.'

He does not exactly say that he pledges himself, if his cousin should remain constant in her attachment to him, that he will marry her at the end of three years. That is implied, though not specifically stated. He adds:

'If you wish me, or like to do it yourself, to give out my final decision about my cousin, you are at liberty to do so; but I leave it to you.'

That being the state of things between the two at that time, he comes up to London on the 14th, stays with his aunt and cousin until the 19th, when they go down to Tishborne, in consequence of their hearing that Sir Edward Doughty was seriously ill. The alarm proved to be false, as the illness was only temporary. Roger stayed there until the 22d. Before he returned to town he had an interview with his uncle. His cousin and himself had determined that he should, before returning to his regiment, ask his uncle to convert the conditional assent which he had given into a positive one, and that they should be married at once. Mrs. Radcliffe gives us the result of that interview. She says Roger had urged her father to withdraw his prohibition to their marriage; and her father's reply was, 'Not at present—wait.' He was to wait and obtain his father's permission and the dispensation of the Church before he could consent, but it was not to be for two years, at all events. Then Roger said, 'This is the promise I have made (producing a letter); but I will fulfil certain conditions. I have given a similar one to my father.' They were walking by the river-side—Roger and

his cousin—talking over future hopes and prospects, when he told her he had made this appeal to the uncle, that it had been unsuccessful, and that he had refused to abridge the period of waiting. And then she said he produced the paper and read it to her. That paper is produced, and there cannot be the slightest doubt that it is in the writing of Roger Tichborne. It is as follows :

‘22d June 1852.

‘I make on this day a promise that if I marry my cousin Catherine Doughty this year, or before three years are over at the latest, to build a church or chapel at Tichborne to the Holy Virgin, in thanksgiving for the protection which she has thrown over us, and in praying God that our wishes may be fulfilled. R. C. TICHBORNE.’

On the back was this memorandum in the handwriting of Lady Radcliffe, ‘This was written the last day I ever saw Roger.’ And that is the end of this romance.

As I have said before, if it had been allowed to run its course, it might have led to a happy union between these two young persons, but Roger (if Roger Tichborne is not now before us in the person of the defendant) departed from this country in search of the means of drowning his sorrows and his cares in foreign travel—a search which ended in his premature death, if it be true that he did in reality go down when the *Bella* foundered. But that he carried with him to the most distant parts of the world to which he went, the love of his cousin, is a thing we cannot doubt; for in the last letter he wrote to Lady Doughty he told her he was as much attached as ever to his cousin, and there was no letter to Gosford in which he did not inquire after her; and if he spoke of her probable marriage in the next London season, it was with assumed and forced calmness. It might in truth be said, with very little change in the exquisite lines of Goldsmith :

‘Where’er I roam, whatever realms I see,
My heart, untravelled, fondly turns to thee;
Still to my cousin turns with ceaseless pain,
And drags at each remove a lengthening chain!’

I dwell upon this part of the case for this simple reason. I believe I am truly portraying the real sentiments of Roger Tichborne towards his cousin. I think those were feelings the memory of which would never have been effaced. A heart’s wounds leave scars quite as deep and lasting as those which steel or fire impress upon the surface of the outward form, and the man who had passed through these passionate emotions could never have forgotten them in after life. Therefore, it is to my mind a crucial test of the reality of the claim of the defendant to stand before us as the living representative of Roger Tichborne to see whether he has a real and substantial remembrance of all that passed between his cousin and himself; and that quite independently of the question of the sealed packet, which I will deal with as an entirely separate part of the case.

This brings me to the consideration of what the defendant has said on the subject, but I must first call your attention to a letter by which it has been supposed that a complete termination was put to the position in which Roger Tichborne stood relatively to his cousin, and which I think has been strangely misconstrued. It is the letter of the 3d of July written by Lady Doughty to Roger after his departure from Tichborne. He had appealed to his uncle to allow the marriage to take place either immediately or at no distant period. This, I think, was a fatal mistake. If he had let things remain undisturbed, the probability is that all

might have gone on smoothly, that Miss Doughty might have remained constant and true to the attachment which she had not disguised from Roger, and that Lady Doughty would have had no opportunity of interfering to disappoint his hopes. But Lady Doughty saw that any appeal of this kind might bring matters to a termination much more hastily than she was disposed to permit, and writes to him. I think it is not impossible that he had appealed to her also. Roger Tichborne writes to Mr. Gosford, and says he is expecting a letter from Lady Doughty, and that he hopes she will not be too diplomatic, though he says she is a very bad diplomatist.

She seems to have been trying to force upon him an irrevocable pledge, while she wished her daughter to be left free that she might be at perfect liberty to marry any person. Lady Doughty goes on to say that Roger had not shown a real change of habits, and that consent to their marriage could not be given until those habits were conquered. She tells her nephew that he is at perfect liberty to act as he considers best, and she asks him to write a letter, after consideration, which may be read by his uncle as well as by herself. She tells him he may wait till his cousin is of age, and they will then see whether their feelings towards each other remain as before, and whether their mutual happiness is likely to be promoted by the union. ‘Subject to that,’ she says, ‘matters may remain as they are, but my child is not to be considered to be bound to any engagement towards you if she meets any one else she likes better. At the same time, I should like to know your views on the subject—whether at the end of the period named, if she has not bound herself to anyone else, you will marry her.’ Well, he thinks that that is diplomatizing too much, and a very unfair thing to impose upon him. He writes to Gosford, ‘Lady Doughty has gained her point. It is the first time that reports have been believed in preference to my word of honour,’ and he winds up by announcing his intention of going abroad and not going back to Tichborne for a long time to come. He also writes to Lady Doughty absolving her daughter from any engagement, if she saw any one else whom she might prefer, and stating that, if his cousin married, it was his intention to go abroad.

Now, did Roger ever go back to Tichborne any more, after June 22, 1852? Lady Radcliffe swears that he did not. Lady Doughty swears that he did not. Mrs. and Miss Nangle, who were both staying at the house, swear that he did not. Mr. and Mrs. Gosford, who, in all probability, if he ever went back, would have known it, both say he never went there any more. But what did occur we know pretty well. He had intimated his intention of not going back again to Tichborne unless he had an express invitation from Lady Doughty. But he got no such invitation. Lady Doughty, although she did not desire to break off the existing relations, did not wish the two cousins to come together. Roger felt that he had been hardly used by her in acting upon the assumption that all the reports she heard were true, and he resented this state of things, and kept himself in a state of moody silence. He did not want to go to Tichborne, although he wished they would invite him to go back. Then he thought he would leave the army and take a hunting-box in Hampshire. ‘No,’ says Lady Doughty. ‘I object to that; because if you come into this neighbourhood, you must come to Tichborne, and everybody will understand that.’

is an engagement, and no one will come forward to seek the hand of my daughter; and if you do not come to the house it will give rise to rumours. Therefore you had better not come near.'

The correspondence upon this subject went on till the middle of September, when he learnt from Lady Doughty that as they had not succeeded in letting Upton, the best thing to do was to offer it as a residence to him. Roger accepted it, went to Upton on the 28th of October, having obtained leave of absence prior to his finally quitting the regiment. It will be a question for you to consider by and by whether Roger ever saw his cousin after he went to Upton. I took you through the letters the other day, and I think you will see that from the time he returned to Canterbury, he did not leave it for a single day, with the exception of the occasion when he came to London to see his father till he went to Upton, where he arrived on the 28th of October. The defendant says that Roger Tichborne, either before or after he went to Upton, was hunting in Hampshire, and that upon one occasion he met his cousin, and they had a conversation which led to the sealed packet—a subject to which I shall call your particular attention to-morrow.

We have now to see what the knowledge and memory of the defendant is. In his examination-in-chief the following questions are asked him:

'How many times did you go down to Tichborne in the course of the year 1852?—I cannot say how many times—several times. In the year 1850 you said you had met Miss Braine and also Miss Doughty?—Yes. Did you meet Miss Doughty in the course of 1852 while at Tichborne?—Yes, I believe so.'

Observe his answer to the next question:

'Were you at all intimate with that lady?' asked Mr. Giffard, in very measured terms. The defendant replied: 'Yes, I knew her very well. Did you walk about with her at all?—Yes, and rode about with her. Did you ascertain whether the degree of friendship existing between you and Miss Doughty was acceptable to her father?—I think not. You mean it was acceptable?—No.'

The next question and answer are very important:

'Do you remember any particular time when that became manifested?—During the latter part of 1852.'

He fixes the date of his discovery that his intentions were displeasing to her father as happening at the end of 1852; and he adds that he did not go to Tichborne so often as before. Now, the discovery was really made in January 1852. But supposing his memory has failed him as to the date, is it true that he did not go to Tichborne so often as he used to do before? He was there again in February; he was there again in June; that is twice in the course of six months after the time of the discovery. That is quite as often as he had been there in any preceding year since entering the army in 1849. On cross-examination he is reminded of what he had said, and asked if it is true, and he answers that it is. He is asked when it was that he discovered that his attentions to Miss Doughty were not acceptable to her father, and he said it was a hard question to answer. The Attorney-General then continues:

'Perhaps you could fix the time if I ask you whether it was before or after you began to make arrangements about selling out?—It was about July. Is that what you mean by "the latter end" of the year?—If you are going to catch me

up like that, how can I go on? I can't fix it, to a day or a month. Can any man treat you more fairly than to read you your own evidence, questions and answers between you and your counsel?

—I think you will find I never confined myself to dates throughout. I believe I have expressed that on several occasions. You have never confined yourself to dates throughout?—Not to a month or a week. I do not do anything so unreasonable as to ask you to do so. When I read from your own evidence that you said your attentions to Miss Doughty in the latter end of 1852 were disagreeable to her father, it is not with any intention of catching you, as you term it. Is this true, that is what I want to know?—Well, isn't July the latter end of the year? Is that what you meant then to say?—It did not occur to me what month it was in. I am not asking you that; I am asking you whether what you swore to Mr. Giffard is true? Do you call July the end of the year? I must repeat, is what you said to Mr. Giffard the other day true or not?—Yes. Then you mean July?—I do not think I turned it over sufficiently in my mind: the jury will understand my meaning. Never mind about the jury.—But I do mind about the jury; and although you are trying to confuse me I do not wish you to confuse them. The Chief Justice.—The questions are very distinct, you observe.'

The Attorney-General presses him upon that point, and he repeats that it was July or August, but at last says he cannot say positively, and is all in confusion. Being further pressed, he says there is only one thing he can refresh his memory from, and the Attorney-General adds:

'What is that?—That is my business. No, I beg your pardon, it is my business.—You say so. What is it?—I do not feel in duty bound to tell you; if the Judge tells me I am bound to tell you, I will. The Chief Justice.—What is your ground of objection? Claimant.—It involves another party. The Chief Justice.—Well, the whole question involves another party. That is no ground for not mentioning the circumstance to which you refer. The Solicitor-General.—Now, then, what is it? Claimant.—Am I bound to tell? The Chief Justice.—Yes. Claimant.—Then I must be more careful for the future. I was paying my attentions to Miss Hales, of Canterbury, at the same time. The Solicitor-General.—When?—That would be about September or October; but what are you alluding to? The Chief Justice.—What are you alluding to? Claimant.—I remember that I was paying my attentions to Miss Hales. I think the Solicitor-General wants to put another construction upon it. The Solicitor-General.—Ah! you are a great deal too deep for me. I only want to get a date from you. I ask you again, when was it you discovered that your attentions to Miss Doughty were unacceptable to her father? Claimant.—About July or August.'

Next comes a very important question as to the last time he was at Tichborne, and the defendant replies that he went there a few days before he left England. Now we know that Lady Tichborne wrote to him shortly before he left this country, urging him to go to Tichborne to see his uncle who was in such a state of health that he could never expect to see him any more in this world, if he missed that opportunity. But Roger refused to go, and he never saw his uncle any more. The defendant is therefore wrong in saying he went to Tichborne a few days before he left England. As

to whether Roger Tichborne saw his cousin five or six weeks before he left, that is involved in the question of the sealed packet, and I shall reserve all consideration of it till I come to that subject to-morrow. The defendant was next asked how he made the discovery that his attentions to Miss

Doughty were displeasing to her father, and his answers are very important as showing his knowledge or want of knowledge of the history of these two persons. We will resume the question of the relations subsisting between Roger Tichborne and Miss Doughty at that point to-morrow.

EIGHTEENTH DAY, *Wednesday, February 25, 1874.*

Gentlemen of the Jury,—We were yesterday engaged in considering the statements of the defendant with reference to the breaking off of the attentions of Roger Tichborne to his cousin, Miss Doughty. He said he had discovered that his attentions to her were unacceptable to her father and mother, and he is asked this question,—

‘You say you discovered your attentions to Miss Doughty to be unacceptable. Were those ordinary attentions, or were you paying your addresses to her?—Well, ordinary attentions, I suppose. I am unable to draw a line between the two. What I mean to say is, that what might have been known privately between ourselves was not known outwardly to the world. What might have been privately between yourselves, sir. There is no privacy in this matter: Miss Doughty is here?—I know that.’

Now, until January 1852, so far as we can gather, nothing very definite was known by the cousins as to their reciprocal feelings towards one another. Lady Radcliffe says she was not sure, but that she hoped Roger was paying her the attentions which a gentleman shows to a lady whom he hopes to make his wife. He says himself that until that month of January he really did not know that she returned his affection. That would, therefore, hardly seem to be a correct representation which the defendant has made.

And now comes an inquiry which goes to the very root of the matter. The defendant is asked how he first discovered that his attentions to Miss Doughty were not acceptable to her father, and he replies, ‘I don’t see how it is possible you can expect me to answer a question of that description.’ The question is pressed, and then he says, ‘It is simply impossible for me to answer your question.’ The Attorney-General next asks,—‘You cannot give me the slightest notion when you discovered it?—No, I really cannot.’ Well, we know perfectly well that Roger was summoned to the presence of his uncle in the library, and that his uncle then communicated to him the fact that he had discovered he was paying attention to his cousin; that he thought the blood relationship between them too close to admit of marrying, and that, therefore, his attentions must be discontinued. The question is farther pressed in cross-examination, and the defendant again says, ‘It is impossible for me to explain how it was.’ Then the Attorney-General says:

‘Now tell me what it was led you to discover that your addresses were displeasing to the person whom you were wishing to make your father-in-law?—I do not know that I can do that. Had you no explanation before you parted?—I do not remember. Did you cease paying your attentions to Miss Doughty?—No, I believe it was the other way. She ceased to pay attention to you?—Yes, I believe it was so. Did you write to her after it was discovered that your attentions were displeasing?—It might have been so. I cannot say. Upon your oath, did you or did you not? Now, did you ever write one word?—What is the good of your asking me to swear when I say I do not remem-

ber? Did you ever write one word to her? A man cannot forget whether he wrote to a girl whom he is trying to make his wife. Did you ever write a syllable to her?—I believe I did. I might have done so. I cannot say; I cannot swear. When?—When? Yes, when? Was it after you ceased to go there so often?—Yes, I believe that was so. When or where?—I cannot remember.’

Now, a suggestion here naturally presents itself to the mind—This man is in love with a young girl whom he wishes to marry, but whose parents on discovering that he was paying attention to their daughter, said that the thing must be put a stop to,—under these circumstances would not a man recollect whether he wrote to the person to whom he was paying his addresses after his attentions were abruptly put an end to? He is asked,

‘You were paying attentions to Miss Hales at Carterbury in September or October?—I was. You did not write to her then?—I might have done so.’

Now comes another important question—

‘Did you tell Miss Doughty of your attentions to Miss Hales?—Really, I cannot remember. Had you any interview with Sir Edward or Lady Doughty upon the subject when this engagement was broken off?—Yes, I believe there was an interview. When and with which?—Well, I fancy it was Lady Doughty. Not Sir Edward?—No. Did he speak to you about it?—Yes, afterwards. After when—after July and August?—It would be about that time. A man does not easily forget the breaking off of such an engagement, or the interviews he had with the parents of the person whom he wished to marry. What passed between you and Lady or Sir Edward Doughty?—I do not remember. Did it make no impression upon you?—I think not. It didn’t go very deep, then?—I cannot answer such a question as that, you know. Can you not give us an outline of what passed?—I do not remember what passed.’

Well now, is it possible that what passed on such an occasion, when a man believed the happiness of his future life depended upon what passed, could have forgotten anything that occurred? The defendant forgets all. We have here another difficulty, and that is the defendant’s recollection or belief upon the subject. The interview at which the objection of the father and mother was communicated, he says, was an interview with the mother, and not the father, whereas we know that it was the reverse. He was sent for by the father and told that the connection must be broken off, and it was not till after that time he had an interview with the mother. The mother informed her daughter of what had passed, and Miss Doughty said, ‘Let me see him,’ and Lady Doughty consenting, Roger was sent for, and saw them both in the drawing room. As for the cousin, she had no other course to pursue than to obey the injunction of her parents; but Roger then learned from her own lips that but for their prohibition she would have been happy to become his wife. The defendant makes the mother the

person who communicated this determination to break off the connection. May not that be accounted for? What actually passed between Roger and his uncle in the library did not become known. But the drawing-room door does not always exclude what passes within. In all probability somebody or other knew that there had been a meeting there between the aunt, the daughter, and the cousin; and the matter would be discussed afterwards. It was not unlikely that the lady would be seen that day and the next morning manifesting considerable signs of emotion. Such things get talked about. Would it not be said very likely, 'O! Lady Doughty has put an end to all hope of a match between Miss Doughty and Mr. Roger, and Mr. Roger must go away.' The fact would soon get about, and Lady Doughty would be named as the objecting party.

Now the next statement made by the defendant is certainly a startling one. Having said he did not remember what had passed, he is asked:

'Did it produce much impression upon your mind?—Well, I really cannot say. I do not remember how I felt at the time.' You will ask yourselves, would Roger Tichborne be likely to make such an answer? The cross-examination proceeds:

'I mean, did it produce such an impression on your mind as to make you recollect it or not?—I think not. You think not? You did not go very deeply into it?—Really I cannot answer such a question as that. Can you tell me whether you cared for it at the time? Did the matter grieve you?—Well, I dare say I felt it at the time. Of course we all feel a thing of that kind. Did you feel it very much one way or the other?—My answer is that I do not remember what it did at the time. What did you do in consequence of it? You said you did not go so often afterwards?—I went abroad. Anything else?—I do not recollect. Can you give me any further account of what passed with Sir Edward Doughty at the interview?—No. Can you tell me what passed with Lady Doughty?—Do you suppose it possible for me to remember? Yes, indeed I do. Where did you see Lady Doughty?—In the drawing-room at Tichborne. Was she alone?—Miss Doughty was with her. You say you can remember this. Now tell us what passed, because you were a good match, you know, for her, being the heir of the Tichbornes?—You seem to know more about it than I do myself. I do not often agree with you, but on this occasion I agree with you entirely. Just try and come up to the level of my knowledge. Why were your attentions displeasing?—I cannot say now.'

Then he is reminded of many things which his memory had enabled him to speak to, and he is pressed again as to what the objections of Sir Edward to the match were, and he replies that the principal objection was that they were first cousins. He is asked:

'Give us your own account of what passed when you had this attachment broken off. What was the ground? What did they break it off for?—I cannot say just now. Cannot you say what grounds Sir Edward and Lady Doughty gave for your attentions being displeasing to them?—I have given you my answer. Do you really mean to say that you cannot recollect upon what ground they broke off your engagement with your cousin? Is that really what you say?—Yes. And is it really that you cannot recollect?—I do not recollect. You really mean to say that you cannot tell

me on what Sir Edward placed his rejection to your suit?—I think his principal objection was that we were first cousins. Did he say so?—I think I have heard him say so. Do you really mean to say that was the ground on which it was put?—I think it was one of the objections. What was another?—I do not know; I have forgot. There was a sort of understanding that it was objectionable, and it was put an end to in that way?—I think so. Was it an understanding arrived at with scarcely any talk about it?—There was not much talk about it. You understood that it was displeasing and went away?—That is it. And, as I understand, you went there not so often, but you visited there at intervals?—Yes, I did. And both Sir Edward and Lady Doughty knew that you did so; you visited by their sanction and invitation, I dare say?—Well, I do not know much about that. You must know one way or the other. You say you visited there again at intervals; what I ask you is, did you visit there? Did you visit there as you had been accustomed to do before, only not so often?—No; when I went into the neighbourhood after that I put up at Winchester.'

I shall by and by put before you letters which show that after that Roger Tichborne only spent one night and part of a day at Tichborne.

'Then, do I understand you to say that you never went to Tichborne after that?—I did not say so. Did you ever go to Tichborne after that?—Yes, I believe I did. Well, that is what I want to know; did you go to Tichborne-house?—I believe I did. And sleep there as usual, only not so often?—I did not say that. That is what I ask you; did you go there as you had gone before, only not so frequently?—I believe I did. Have you any doubt that you did?—I have no doubt. What, the whole time from July or August, when you went away?—No. You went there more than once, did you not?—I believe I did. Were you received there as before, only with the understanding that there must be nothing more between you and your cousin?—Yes, I believe that was so. I ask you whether I am to understand that you went as often as before, but not on such an intimate footing; not as a suitor, but as a friend. Is that what you mean?—Well, you may put it that way, but I hardly understand it that way. (Addressing the Lord Chief Justice)—My lord, I am getting very fatigued, and certainly do not understand the words so well as I should like to. Chief Justice Bovill.—Surely the questions are very simple. You are asked whether you went to Tichborne-house after the engagement was broken off?—Yes, I did go there again. On what footing?—I went there on the footing that we were all friends. I was glad to see them, but I didn't stay there.'

Now that is the cross-examination of the defendant upon the subject of his relations with his cousin, and the manner and circumstances under which his courtship with her was put an end to; and the question is whether this statement of the defendant is such a representation of the facts as you might have expected from Roger Tichborne.

It is quite clear that in many respects he makes most serious mistakes. He is aware that these relations existed, and that somehow they were put an end to, but as to how or when he appears to be ignorant, or to have only a very confused idea. He supposes that his attentions to his cousin were discovered and put an end to in July or August, and he has no notion of what took place in January and February, his idea being that from the moment the discovery, as he calls it, was made his

attentions were ended, and his position with regard to his cousin became simply that of a friend; that he went occasionally to the house, not on the same intimate footing as before, but merely in the form of casual visits. He did not know that after he had been told in the month of January that he must no longer pay his addresses to Miss Doughty the positive prohibition was recalled and converted into a conditional consent. If it be urged that, from failing memory, he put July for January, then the statement he makes is the very reverse of what occurred in January; so that whichever way you look at it he is at fault.

Then, again, he is obviously unaware that the relation of lovers subsisted after the discovery in January, and continued until the summer, and that the breach then was occasioned, not by the discovery by the parents that he was paying his addresses to their daughter, for that they knew in January, but by the precipitate conduct of Roger Tichborne himself in pressing his uncle to allow the marriage to be solemnised at once, and not at the end of the probationary period of three years. That enabled Lady Doughty to interpose, and to put his relations to his cousin upon so cold and distant a footing that he withdrew himself into a position—as I have before called it—of sullen reserve. We must not lose sight of the fact that the first statement of the defendant was that this happened at the end of 1852. Under pressure, he puts it as the month of July or August, and then he says he calls July the latter part of the year. But he makes no reference to the earlier part of the year when these scenes occurred; so that it seems to make the whole statement a mass of confusion. The defendant is asked whether he corresponded with his cousin after this, and he certainly did not. He gave her those impassioned papers of which the defendant had no knowledge, but we have no trace of any correspondence. He asked leave of the parents to correspond with his cousin, but they objected, and he gave it up, and Lady Doughty commends him for his honourable conduct in that respect.

Well, then, in point of fact the relations subsisting between the cousins were twice interrupted—first by the father in January, and again by Lady Doughty in July. The defendant speaks of his attentions to his cousin being interrupted by the discovery of the parents. The word 'discovery' was hardly applicable, because Lady Doughty knew perfectly well of the attachment. In the first instance, the defendant seems to have been wholly unacquainted with the fact of the state of the relations between them when they were interrupted by Lady Doughty. It is altogether as defective a state of knowledge with respect to an event that you would think would have made an impression upon most men's minds, and would not be likely to be forgotten, as can well be conceived. The defendant is asked when the affair with his cousin was broken off, and he says about the latter part of November or December. This is all important, because it has reference to the meeting at which the defendant alleges that Miss Doughty conveyed to him the fact that she feared she was, in the family way. He says that they had a conversation about the uncle's behaviour, and he told her it was quite impossible he could marry her after what his uncle had said, though the defendant could not give the exact words. He is asked:

'Give your own account of what occurred.—Really I do not recollect after all those years what passed. What did you say to her, or she to you?

—I cannot tell what the conversation was. What was it about?—With regard to my uncle. What was the substance?—I told her it was quite impossible I could marry her after what my uncle and aunt had said to me. Quite impossible you could marry her?—Yes. It was on that subject. I cannot give the exact words. Where was the interview held?—At the lower end of the village of Tichborne. I had just returned from hunting. I got off and led my horse, and walked alongside of her down the village. You told her this, and cannot recollect what she said?—No, I cannot. Were you staying at the house?—No. Where?—At Winchester. Do you mean to tell the jury that what you have told us is all that passed at the interview?—No; but what I want to state is that there are matters which I should be very reluctant to state in a public court. If I do so, it will be because I am compelled to do so. I told you before there are two parties to be affected, and on the part of the other one you are free to speak. Be good enough, therefore, to answer the question. Is it all you recollect?—We had a long conversation on the occasion, but that is all I can recollect of it. When did you see her next?—(No answer.)

Then the Lord Chief Justice of the Common Pleas interposes, and says:

'This is a very important matter. It was so opened by your own counsel. What passed between another person and yourself, and which nobody else could be aware of, is very material. If you can recollect anything else, say so. Witness.—It is impossible for me to recollect the whole of a conversation which was held 20 years ago. The Attorney-General.—Nobody asked you to do so. When did you see Miss Doughty next?—I never saw her after that. Did you not see her after the end of November 1852?—I think not. After the engagement was broken off you saw her once, and once only?—Yes.'

At this point the defendant, addressing Lord Chief Justice Bovill, said:

'My Lord, there is one part of my evidence given on Friday which I wish to correct. I said that it was Miss Doughty who broke off the engagement; at least, I saw by the papers I said so. That was wrong. The Attorney-General.—Well? do I understand you to say you broke it off?—It was my uncle broke it off. What is it you want to correct?—It was me who broke it off, by her father's command.'

Well, then the shorthand writer's note of what he had said is read over to him, from which it appeared that not once, but over and over again, he stated that it was Miss Doughty broke off the engagement, and that he did not. Nothing could be more explicit than the questions put and the answers given. I suppose, however, that the defendant afterwards thought that it was a very rash statement to have made, and so he corrects it. Then the cross-examination as to this parting interview is continued:

'May I take it that this was the first and the last time you saw Miss Doughty after the engagement was broken off?—I believe it was. When you were going away did you see Miss Doughty?—I am pretty well sure I did not. Lady Doughty wished me to go to Tichborne and bid my uncle good-bye, and she went to Wardour herself because she would not meet me. If Lady Doughty asked you to go, why didn't you do so?—Because I didn't think my uncle behaved properly.'

Now, in a former part of the defendant's cross-examination, which I have already read to you, he

said he did go, but did not see Sir Edward and Lady Doughty, because they were not there, and I corrected that at the time by a reference to a letter written by Roger to Mr. Gosford in which he said that he had been asked to go, but did not. Then he is pressed as to whether he ever wrote to Lady Doughty after this period, and he says he might have done so, but he won't say. Ultimately the Attorney General asks,—"Will you undertake to say that you ever wrote one word to your aunt between the time when the engagement was broken off and your going abroad?—I don't think I did." We know that between the 1st of July and the time of his leaving Upton there were no fewer than 17 letters written by Roger to Lady Doughty.

Then the Lord Chief Justice of the Common Pleas again interposes, and says, "Do I understand that there was an actual engagement between you and Miss Doughty?" and the defendant replied, "It was an understood thing. It was an engagement, but it was not known to my uncle, and when he heard of it he became very angry." Now, we know perfectly well that if there ever was an engagement at all it was not till after the attachment had become known to the uncle. We know, too, that it was only in February, when Roger had his uncle's consent to the union, that an engagement was made, not a positive but a conditional engagement, under which, if they still continued in the same state of mind after three years, they might marry. But here the defendant represents that there was an engagement between Roger and his cousin which was not known to the uncle, and therefore must have existed prior to 1852. That is utterly inconsistent with the facts. Then he says that his uncle became angry when he heard of it, but there is no evidence to show that the slightest feeling of anger ever arose in the mind of Sir Edward. The circumstances are these. He disapproved the match, and said, "This must not be; you are too nearly related; but you seem to be getting too fond of each other, so you had better, my dear Roger, leave." But as to anger, there is nothing in any of the letters or in the evidence to show that he ever entertained an angry feeling towards Roger.

Then comes an examination as to the last interview between the cousins, which is of much importance, as it relates to the subject of the sealed packet, and I think it right, therefore, to read to you what the defendant said. He is asked:

"Was that the last day you were at Tichborne? Were you ever at Tichborne after that?—I think I was. Did you see Miss Doughty?—I don't think I did. When did you last go?—A few days before I left. When did you last see Miss Doughty before you left England?—I cannot exactly say. Do I understand you to say or not that the parting with your cousin was on the occasion when you were leaving the house?—I believe it was. Then at that time the matter, as I understand it, was broken off?—Yes. And by you it was never renewed?—I did promise, if single when I came back, I would marry her, I believe. When was that?—At the time I met her in the village."

Then comes a rather awkward reminder:

"I thought you were not coming back during your father's lifetime?—I don't deny that that was my intention."

So that, according to him, after having told her that in consequence of what the uncle and aunt had said to him he could not marry her, he tells her if she remained single till he came back, which would, of course, represent an indefinite

period depending upon the duration of his father's life, he would marry her. Cold comfort that for the poor girl if the rest of his story were true, because, according to his account, she made a communication to him at that time implying to her the most disastrous and calamitous state of things that can possibly be conceived. That is the account given by the defendant in answer to a series of questions with regard to his cousin, and with regard to the last interview with that cousin whom he wished to make his wife. As I said yesterday, this is one of the crucial tests of the reality of the defendant's claim. You have followed carefully the letters of Roger Tichborne, and it is a question for you whether upon those letters and the other evidence, and what you have heard of the life of the defendant, the account given by him is such as corresponds with what you know of the relations of Roger Tichborne and his cousin, and such as would lead you to come to the conclusion that the defendant is the Roger Tichborne he represents himself to be.

And now, gentlemen, let us come to the all-important subject of the sealed packet. Of this sealed packet no mention was ever made by the defendant, if we can trust the evidence that is before us, until after that remarkable meeting which took place at the Grosvenor Hotel, in the month of June 1867. Mr. Gosford, unfortunately, was, as we know, a debtor in a considerable sum to Mr. Bulpett, a banker at Winchester. It occurred to some ingenious person that Mr. Bulpett would very likely be able to exercise an influence over the mind of Mr. Gosford; and it was suggested to Mr. Bulpett—I believe by Mr. Holmes, but with the concurrence of counsel, which I state to my very great regret—that it would be an expedient and politic thing for Mr. Bulpett to invite Mr. Gosford to dinner, to say nothing to him about the intention of bringing in the defendant after dinner; and in this way to bring them together. It formed part of the scheme—for I cannot otherwise call it—that there should be two gentlemen with pencil and paper, pocket-book, or some other medium of taking down what passed, who should take notes of the conversation as it occurred. Not a word was said to Mr. Gosford about this impending interview between him and the defendant, until, according to Mr. Bulpett, they were at dinner. Mr. Bulpett then says, "The Claimant is coming here after dinner with a friend or two; I wish to bring you two together. But if you do not like to meet him you can always go away." I do not think Mr. Gosford was asked as to the letter of this statement; but it is quite certain that he went there utterly unconscious of what was about to take place.

Well, the defendant and the two gentlemen made their appearance after dinner. What passed on that occasion is, of course, very material; but the most important part of it is that which refers to the packet which had been left by Roger Tichborne in the hands of Mr. Gosford. The conversation does not immediately turn upon that. Mr. Bulpett said, "I feel you two only want to be brought properly together to understand one another." Then, says Mr. Gosford in his evidence, "Mr. Bulpett said to me, 'Ask him some of the questions that you put to him before, at Gravesend, and you will see he will answer them.'" Mr. Gosford here states that he had considered Mr. Bulpett as an intimate confidential friend, and that after the meeting at Gravesend he went to his house and told him all that had passed; and then, at this meeting at Grosvenor Hotel, to his

surprise, when he meets the defendant there Mr. Bulpett asks him to put, one after another, the same questions which he had put before, and to which he had received unsatisfactory answers. Then he found that what he had told Mr. Bulpett had been communicated to the defendant. That is Mr. Gosford's view of it. 'Mr. Bulpett said, "Ask him about the island," and,' says Mr. Gosford, 'I asked the defendant what he knew about the island. The defendant replied, "Not much, but I quite remember chasing some poachers who were there into Poole."' Mr. Bulpett said, 'That is true surely.' The next question was also put at the suggestion of Mr. Bulpett. 'I asked him,' said Mr. Gosford, 'whether he remembered the dogcart, and he replied that he had been driving me into Poole and upset me. I said, "That is all wrong. I was not within 50 miles of the place; you are referring to Mr. Slaughter."' Mr. Gosford goes on:

'I got angry, and turning to Mr. Bulpett, I said to him, "This is idle nonsense." Mr. Bulpett tried to pacify me, but I said, "I will talk to him about some other thing."

He then, he says, requested Mr. Bulpett and the two gentlemen, Mr. Hingston and Mr. White, to retire to the other end of the smoking-room in which they then were while he asked the Claimant a question as to something known only to themselves. They did so, and Mr. Gosford goes on to say:

'I said to the Claimant, "Look here—if you are Roger Tichborne, you can tell what was the nature or the contents of." I forget which, "of that paper you left with me when you went abroad." He thought a moment or two, and said, "I cannot remember." What took place next?—We got warm just then, and I led further up to it, but he could not remember. At last I said, "I will tell you further. It was that, in the event of your marriage with a certain person, you would carry out certain arrangements at Tichborne. What were they?" and he again said he could not remember, and that he did not. I then said, "It is no use talking." I got sick of the whole thing. He too began to be angry, and complained of being watched by two detectives. He also mentioned that Mr. Stourton, the guardian of the infant, had been attempting to bribe his witnesses, and added that Mr. Stourton should remember that if he could give people 5000, others could give 6000. I said, "I know Mr. Stourton too well to believe that," and the subject then dropped. Just at that time, whether Bulpett noticed that we were excited or not I don't know, but he and the others came back to us, and the Claimant said something about Gravesend. Bulpett said, "I do not want you to talk about those things, but about something you both know." I replied, "I have just put to him a straightforward question. I have asked him the nature of a packet Roger Tichborne left with me when he went abroad." Mr. Bulpett said, "That is a straightforward question—what was it?" and the Claimant said, "I do not know," or "I do not remember." The next thing that Mr. Bulpett asked was, "Where is the packet?" I said, "No matter where it is." I did not say I had destroyed it. Something was then said about Roger Tichborne's letters, and I said, "If I had thought of it I could have brought a whole handful of them written just before he went aboard the *Bella*." Other questions were put, and after a time I asked him why he had not called on Lady Doughty, and he replied that he was ready to do so. That seemed to strike the other gentlemen as important.'

Well, if Mr. Gosford is to be believed, this is the first mention ever made of the sealed packet; but as the defendant does not admit the accuracy of Gosford's evidence, it is only fair that you should hear his account of it. He says he remembers meeting Gosford at the Grosvenor Hotel, and admits going there for the purpose with two gentlemen, Messrs. Hingston and White, and he says that the conversation was taken down in writing by the two gentlemen named, and by Mr. Bulpett also. So that the position in which Mr. Gosford found himself was this. There were three persons present taking notes on behalf of the Claimant, while he had not one witness to check their after-statements, or to confirm what he would afterwards state about it. The defendant then denies that he was asked any question by Mr. Gosford about the dogcart or the island at Poole. And now we come to his evidence as to the really important part of the interview:

'Did Mr. Gosford say, "I should like now to ask you a few things in private?" and thereupon did the others leave the room, or go to the other end of the room for that purpose? and when they had gone, did Mr. Gosford say to you to this effect, "If you are Roger Tichborne you cannot have forgotten that before leaving England you left in my hands a certain sealed packet which you had marked private and confidential?"—No; that was said in the presence of Mr. Bulpett. Now, what was it?—You are surely not going to extract that from me again. I am putting it to you as a question?—No, he did not. Let me see—stop a moment. In the first place it was not said when he and me was by ourselves. He did say I had left a packet marked "private and confidential," and asked me to tell him the contents of it, but I said, "I decline to do so in the presence of these gentlemen." I ask you whether this was not so when the other gentlemen had gone away from the table?—No, it was not. That question was asked me in the presence of the other gentlemen, and from the time the other gentlemen went to the end of the room and left Mr. Gosford and me, he never asked me one question that he there described, merely speaking to me about my life in Australia. When Mr. Bulpett came back he said, "Have you asked him any question?" and he replied, "Well, no, I cannot; we have been talking about local matters." Did you say, "I cannot remember?" and did he say, "Well, it was to the effect that you were to marry a certain person, and carry out certain arrangements at Tichborne?"—He did not. Can you tell me what it was?—I never mentioned anything of the kind. The question was asked in the presence of the other gentlemen. It is fortunate for me that they was, because no doubt they have notes of it. My answer was, "You know, Mr. Gosford, the nature of the document. I would not mention it in the presence of others." Did he say, "Can you tell me what those arrangements were?"—No, he did not. Did he press you several times to tell him the contents, and did you still say you could not recollect anything connected with it?—I did not. My answer was, "You know very well I would not tell you the contents of that document in the presence of others."

And then he was asked by Mr. Bulpett where the document was, and whether it was in existence, and he said, "Yes, and it is in my lodgings in London now." When cross-examined on that Mr. Gosford swore he never said so. The cross-examination goes on:

'I am putting to you whether this passed in the

absence of Mr. Bulpett and the other persons and you were unable to tell him, and whether he gave you some suggestions about what the subject was, and you were still unable to tell the contents?—I say it was not so. I never denied knowing the contents, but I refused to speak of them.

Well, that statement is in direct opposition to the statement of Mr. Gosford, and, of course, it makes all the difference whether, when Mr. Gosford put the question as to the contents of the sealed packet, the defendant said he did not know or that he declined to state before others owing to the nature of the contents of the packet. If Mr. Gosford asked the defendant whether he knew the contents of the sealed packet, and if he was under the necessity of admitting that he did not remember, that would be very strong evidence indeed against him. The defendant denies that he said he could not remember, but declares that what he said was that he would not divulge the contents in the presence of others. If it stood there between these two witnesses it would look very much as if one or the other was telling what he knew to be false, but there would remain this observation in favour of Mr. Gosford's statement. Mr. Gosford put the question as a crucial test of the identity of the defendant. If the defendant could at once have stated the contents of the document correctly, it would have gone a very long way indeed towards showing that he was Roger Tichborne. Therefore I should have expected a man under such circumstances to say, 'Mr. Gosford, you know as well as I do that the contents of that packet ought not to be made known to any one, but should be kept between ourselves. Let these gentlemen retire, and I will tell you the contents.' There would have been no difficulty in asking the gentlemen to withdraw. They had gone before to the other end of the room, and would do so again if requested. That course was certainly not pursued; and the circumstance, I think, in some degree, tells in favour of Mr. Gosford. The defendant's own account of the matter is that Gosford put the question, and that the defendant declined to answer it.

Mr. Bulpett was called; and I think if the learned counsel for the defendant had had any previous knowledge of what Mr. Bulpett would say from first to last, and of the way in which he confirmed Mr. Gosford, that gentleman would not have been called. Mr. Bulpett was called on Friday; he remonstrated with the learned counsel for the defendant; he then sent a note to the Court to say that he was ill and would not be able to be examined for some days, but the learned counsel insisted on his coming forward, and a more unsatisfactory exhibition than he made as a witness I must say I never saw. Whether his memory failed him, whether it was his zeal, or what may have been the cause I do not know, but a more painful exhibition I have not often seen than was shown by Mr. Bulpett when under examination. He had seen Roger Tichborne, I think, on only three or four occasions, and then in the hunting-field, just as he saw any other gentleman; he had never spoken a word to him, and, though a Tichborne banker, I believe he never set foot within the walls of Tichborne-house. He goes to Holmes's; he takes the deepest interest in the case, he places 500*l.* at the disposal of the defendant without security, and makes himself, in short, a sort of blind partisan before he had an opportunity of forming any judgment at all in the matter; and I must say, from what I saw in the witness-box, that I think

Mr. Bulpett took a very false idea and measure of his own capacity and intelligence to arrive at any sound and satisfactory judgment upon the subject at all. We have him here equivocating, shuffling—first saying one thing and then another, and altogether making a most sorry exhibition.

However, this gentleman was called to contradict an intelligent witness like Mr. Gosford. It may be, on the other hand, that Mr. Gosford is open to the observations which the learned counsel for the defendant made with respect to him. That is for you. You may not believe Mr. Gosford; that is, of course, within the range of possibility, and therefore we must see what Mr. Bulpett says. Mr. Bulpett admitted that his memory was singularly defective, and, anticipating that Mr. Hawkins would ask him questions as to what occurred on the former trial, he brought with him a newspaper report of what then passed, made up as a book, and he sought leave to use it in a manner that I wonder did not move the stern, unbending heart of Mr. Hawkins. He made piteous appeals to be allowed to use the newspaper report, but Mr. Hawkins declined to be moved by his appeals, and poor Mr. Bulpett was left to his unaided memory.

Then we come to what transpired at the interview. I must say that I think the whole proceeding most indefensible; and I am surprised that, with Mr. Lookock Webb's concurrence, such a scheme should have been concerted to get Mr. Gosford alone into the hands of these four persons. Mr. Hingston and Mr. White were there. They took notes. Why should they not have been called? The defendant says that when they were present Mr. Gosford put the questions about the sealed packet, and that he declined to answer because they were present. Mr. Gosford says that was not so. You will ask yourselves whether it is likely, if Mr. Gosford knew that the answer he might get would have impeached the honour of Lady Radcliffe, he would have put the question before third parties. Do you think that, if the contents of the sealed packet had been such as to stamp Lady Radcliffe with a brand which could never be effaced, Mr. Gosford, the steward and friend of her father, would have asked the defendant to state the contents of the packet—the contents being such as would cover her with infamy and shame—in the presence of strangers like Mr. Bulpett, Mr. Hingston, and Mr. White? Why, it speaks for itself. These gentlemen took notes. Why are they not called to support the defendant's statement? Is it that their evidence would probably be quite the other way?

Now, this is Mr. Bulpett's account of what occurred: He is asked whether he said he had brought the defendant and Mr. Gosford together, as he believed that doing so would lead to their understanding one another, and he says he thinks that may have fallen from him. Then he is asked whether he suggested to Mr. Gosford that he should put the same questions to the defendant as he had put to him at Gravesend, and he said he did not use the words in the manner they were put to him; that what he said was, 'If you two gentlemen talk over matters, there are many things you must both know that happened previous to Roger Tichborne leaving England.' Then Mr. Hawkins asks, 'Do you mean to swear there were no questions put before you retired?' He answers, 'To the best of my belief, there were not.' 'Did Mr. Gosford say in substance, I have got something I can put to him in private, before no one else?—I do not remember such an observa-

tion. Did you say you need not mind me?—I will swear I did not. Mr. Gosford says you did. —I beg Mr. Gosford's pardon. I and the other gentlemen went to another part of the room, or into a separate room, I forget which; but we went out of their hearing. I think I was away about half an hour or twenty minutes, when I rejoined them again. Did Mr. Gosford then say, "I have asked him a straightforward question. I have asked him about the contents of a packet he left with me before he went abroad"?—No, I found them talking about things they had talked about at Gravesend. The conversation as to the packet did not arise at that moment. The first question Gosford put to the defendant was, "Where were you when you joined the army?" and the defendant said, "At Canterbury." The next question was, "Why did you want to leave the army?" But here Mr. Bulpett checks himself, and says, "No, I am wrong; I must refer to my book," meaning the newspaper report. But Mr. Hawkins would not let him. Then he says, "The next question was, 'Why did you want to leave the army?' The defendant answers, 'Because I was in debt 300*l.* or 400*l.*, and I wanted to get abroad.' Then I think the next question was, 'whether the regiment was ordered to India?' No, I am wrong; the next question was, 'Did not you and Sir James Tichborne have some words about leaving the army?' The defendant said they had."

A few more questions were asked, and then Mr. Hawkins brings him back to the subject of the sealed packet, and inquires how it was introduced. Mr. Bulpett describes it in this way: "I think Mr. Gosford says, 'Do you remember leaving a packet in my possession before you left England?'" There, gentlemen, you see he makes Mr. Gosford introduce the subject of the packet. Then Mr. Hawkins asks, 'Did you not upon that turn to the defendant and say, "Well, that is a straightforward question?"—I did make use of the word "straightforward" certainly. Did not you make use of the words "straightforward question?"—I don't remember. Did the defendant say, "I don't remember?" The defendant's answer was, "I don't remember anything about it." Mr. Bulpett then says he had omitted two or three questions, and he appeals to Mr. Hawkins to let him look at his book, trying, but in vain, to touch the hard heart of Mr. Hawkins. The defendant said he didn't recollect anything about the packet; and now observe how Mr. Bulpett seeks—well, I don't know whether he sought, but in effect he did give a different colour to the defendant's answer. At first he states expressly that the defendant said he did not remember anything about the packet; but he afterwards says the defendant hesitated and said he would not state the contents. Then I said to him, "It makes all the difference in the world which answer he gave. I have taken down your words, and in the first place you said he didn't remember any of the contents. Now you change the phrase, and say he declined to state the contents. There is a great difference between the two." His explanation of the divergence is that there was a little irregularity in the proceedings. Then my brother Mellor asked, "Was it to the contents of the sealed packet he was referring?" and he says, "Yes, the sealed packet." "I put the question to Gosford," said he, "Where is the sealed packet?" and he answered, "I have got it among my other papers in London." There Mr. Gosford and Mr. Bulpett are directly at variance, and it is a pity that the other persons

who were present were not brought forward to relate what had occurred. Mr. Bulpett is then asked this question, 'Did not Mr. Gosford say, with respect to the sealed packet, "No matter where it is?"' The answer is, 'I believe he did say so.' 'Did he not also say, "If I had any idea of meeting you, I would have brought a whole handful of Roger Tichborne's letters?"—I believe he did. He said he had a lot of his letters.'

Let us pause here for a moment, because we find Mr. Bulpett contradicts himself, for he said before that Gosford stated he had destroyed Roger Tichborne's letters, otherwise he would have brought them. Mr. Hawkins again says, 'I ask you with reference to the sealed packet, was not the last observation Mr. Gosford made, "Never mind where it is?"' The answer of Mr. Bulpett is, 'I will not undertake to say whether it is so or not. The subject ended abruptly, and then an arrangement was made between Mr. Gosford, the defendant, and myself to get some of the family to meet the defendant as soon as possible.' Of course, if once the packet was admitted to be destroyed, there would have been unlimited scope for conjecture as to its contents. But Mr. Gosford swears that he left the matter in doubt, by saying, 'I will not tell you whether I have it or not.' Mr. Hawkins then asks Mr. Bulpett, 'Did not Gosford say that if the defendant were Roger Tichborne he could tell him the contents of the packet?—Well, I think he said so. I am disposed to think he made that observation; I am disposed to think the defendant would not state the contents of the packet, and that he said, in rather a positive way, he would not.' 'I ask you,' says Mr. Hawkins, 'upon your oath, whether the defendant's words were not "I don't remember?" Upon the former trial you said the defendant stated he did not remember anything about it.' To this Mr. Bulpett answers, 'I did.' 'Did you not ask Gosford at that meeting to put questions to him about matters that occurred before he left England?—I did. Was not the result of the interview a declaration by Gosford that he believed the defendant to be an impostor?—I believe it was. The result of the interview upon the minds of White, Hingston, and myself was that the answers of the defendant were so natural that we believed him to be the man.'

I asked him the reason why any human being could come to such a conclusion from what had occurred, and he says his reason was because the questions were put and the answers given in such a ready way. But were the answers true? The defendant was asked where he had joined the regiment, and he said at Canterbury. Then said I to Mr. Bulpett, 'You are not aware that he did not join at Canterbury?' He answers, 'No, I am not.' 'Why, don't you know Canterbury was the last place he was in with his regiment, and that he joined at Portobello barracks?' His answer is, 'Well, that I did not know.' Another answer that the defendant gave very readily was that he left the army because he was 300*l.* or 400*l.* in debt, and wanted to go abroad. 'Do you know he was in debt?' He answers, 'No, I do not.' Well, if Roger Tichborne did owe 300*l.* or 400*l.* he would have had no difficulty whatever in paying the money. But he was not in debt. Another question was whether there were not words between the defendant and his father before he left England, and about this also Mr. Bulpett knows nothing. And yet it is upon the answers to such questions that Mr. Bulpett makes up his mind as to the identity of the defendant with Roger Tichborne—answers as

to the correctness of which he was wholly unable to form a judgment.

Again, we come back to the packet, which Mr. Bulpett now speaks of as 'a brown-paper parcel,' and he says he thinks it was Mr. Gosford who said, 'Do you remember giving me a brown-paper parcel?—O, no.' He corrects himself; 'Let me see, I think the inquiry came from the defendant.' My brother Mellor then asks, 'Do you mean the defendant suggested the brown-paper parcel?—Yes, the defendant said, "Do you remember my giving you a brown-paper parcel or sealed packet, at Southampton before I left England?"' I assume this is a mistake about Southampton, but this unhappy witness states that the defendant said he gave Mr. Gosford a brown-paper parcel at Southampton. He is asked, 'Did he say brown-paper parcel or sealed packet?' and he answers he does not know which. Then I asked could he say where the brown-paper parcel was first introduced, and he says he thinks it was where the question about the packet first arose between the defendant and Gosford, and that it was the defendant first introduced the subject. What seems to have got into the head of this confused witness was this: The defendant said to Gosford, 'Don't you remember I took leave of you at Southampton?' and Gosford's reply was, 'I don't admit that.' Then Mr. Bulpett is asked, 'Was not the next thing that was said by Gosford to the defendant this, "Don't you remember leaving in my possession a sealed packet before you left England?"' Mr. Bulpett answers, 'Yes, I remember he said so; but I won't take it upon myself to say whether the words were "a brown-paper parcel" or "a sealed packet."' Then Mr. Bulpett goes on to say, 'Mr. Gosford asked, "Do you remember the contents of the letter left in the parcel?" and the defendant answered, "I don't remember at this moment."'

There, gentlemen, Mr. Bulpett comes round to his original statement, and we have a distinct recognition by him that Mr. Gosford was right when he said that it was he who put the question about the sealed packet to the defendant, and the defendant acknowledged his inability to remember the contents of the document. That is an important fact when we come to consider that this witness made up his mind so completely in favour of the defendant's identity with Roger Tichborne at a time when he admits the defendant knew nothing whatever about the contents of the sealed packet, which was mentioned as a test of his identity.

And here my learned brother reminds me of a point which I think I have already impressed upon your minds, but it is so important that I shall mention it again. It is, that precautions having been taken that anything obtained from Gosford at this interview might be recorded in such a manner as to leave no shadow of doubt of its accuracy, supposing the witnesses to be honest, and we have no reason to question the honesty of Mr. White or Mr. Hingston; these gentlemen, respectable witnesses living in London who might be called, are not called to say whether the defendant did or did not remember the contents of the sealed packet. This interview occurred in June, and Gosford, I think most incautiously and unfortunately, lets out the fact that a sealed packet had been left by Roger Tichborne with him. Of course, the next thing was to find out whether it could be produced. They waited until an examiner had been appointed by the Court of Chancery to take the cross-exami-

nation of the defendant. Mr. Gosford had been made the defendant in one of the suits as executor and trustee of Roger Tichborne, and had to make an affidavit. They were entitled to cross-examine upon that affidavit, and, accordingly, when the re-examination of the defendant comes round, the only thing they want to know is what has become of the sealed packet. They put that question to Mr. Gosford, and he says, 'I destroyed it.'

That examination was held on the 1st of August, and on the 2d of August, the very next day, the defendant, who did not know the contents of the document when he was at the Grosvenor Hotel, drew up a statement in which he impugns the character and honour of Roger Tichborne's cousin, then Mrs. Radcliffe. And Bulpett was a party to the suggestion, because he is not certain whether it came from Holmes or him that they should have Gosford up for cross-examination in order to know whether this packet was in existence or not. He admits that he and Holmes and the counsel concocted that scheme, though he heard with his own ears the defendant say he could not tell what the contents of the document were. Well, Bulpett, having before him the paper which the defendant drew up impugning the honour of his own cousin, supposing him to be Roger Tichborne, reads the document and puts his initials to it in order that, at any future time, it might, if necessary, be identified. But it never occurs to him to say, 'Here is a statement of the most vital and important character, made by a man who, two short months ago, in my own hearing, said he remembered nothing about the contents of that packet.' He had heard that admission made, and yet he actually puts his name or his initials to the paper which purports to reproduce what had been contained in the sealed packet or brown-paper parcel. I must say that Mr. Bulpett stands in this matter in a very unsatisfactory and unpleasant light, which only shows how unfortunate it is that a man of small intelligence should put himself into a position altogether beyond his limited capacity.

Well, to this paper, drawn up on the 2d of August, I will presently draw your attention. It was not produced for some time after. But in the month of February the defendant had an opportunity of making an affidavit in reference to the document in his hands, and in this affidavit he refers to the papers which he had left in possession of Mr. Gosford. It is necessary that I should call your particular attention to this affidavit. In it he says: 'Shortly before, and in anticipation of my leaving England in the month of March 1853, I sealed up and placed in the hands of the defendant, Vincent Gosford, for safe custody, the document set forth in the second part of the second schedule, with instructions to hold the same for me as my confidential agent, and not to open the same except in certain events, one of which I know has not happened, and the other I hope has not happened.' Now, that is not his own language; it is the language of one of his legal advisers, and most insidious language it is. In the schedule referred to the paper is described as 'the sealed document written by me relating to my cousin Katherine Doughty, and left by me with Vincent Gosford before I left England in 1853.' I say that is insidious language, because it must be taken in connexion with the rest of the defendant's statements with respect to this affair with his cousin. I cannot doubt it was a regularly and craftily devised scheme to place the defendant in a position of

appearing to know the contents of the sealed packet, and with this object—that while those contents would be fatal to the character of Mrs. Radcliffe, he might have the advantage of not stating the contents in open Court, and so exposing himself to the imputation of having basely betrayed Mrs. Radcliffe's secret.

Who could read that document and not think there was latent under those ambiguous expressions an unmistakable reference to something relating to Mrs. Radcliffe which would not bear the light, and which, therefore, could only be a reflection upon her character and her honour? 'I placed in the hands of Vincent Gosford a certain document, to hold the same for me as my confidential agent, and not to open the same except in certain events, one of which I know has not happened, and the other I hope has not happened.' Would you understand that to mean that he wrote the document, sealed it up, and then handed it to his confidential agent, unread by the latter, enjoining him never to open it unless in certain contingencies? Or would you understand it to mean that he first read it to Mr. Gosford, then sealed it up and placed it in his hands with directions not to open it until the contingencies referred to had occurred? The defendant's account is that he took the paper to Gosford, wrote it in his presence, read it over to him, sealed it up, and then committed it to his charge. The true construction, perhaps, is that he wrote the document, did not read it to Gosford, but placed it in his hands with instructions that he was not to make any one acquainted with it unless in certain contingencies. That is the first account of it. Let us see what is the second. Serjeant Ballantine, in opening his case to the jury, makes this statement:

'Before Roger left the country he put into the hands of Gosford a sealed packet. For reasons which, before the end of this case may be made apparent, I do not desire to enter into this matter in great detail. He put into the hands of Gosford a sealed packet, which he told him contained certain directions in the case of his death. Since the arrival of Sir Roger various witnesses beyond impeachment have testified that Gosford has admitted the possession of that sealed packet. He has admitted it in the presence of Mr. Bulpett and others. Now, let us dwell for a moment on the importance of that statement. Here was a packet sealed up, the contents of which could only be known to the young man who left Europe in the Pauline. No human being but himself could state them. No human being at this moment can tell what they are.'

That seems to me to imply in the affidavit which I have just read that Gosford was not acquainted with the contents of the document in question. Serjeant Ballantine proceeds:

'My client is able to tell the contents of that document, and if he does not tell them correctly, he challenges the production of the document for the purpose of showing he lies, and if he does, where will be his case and what will be the value of it? I know what has taken place. I know what Gosford has said in his examination, in which he appeared in the part of a defendant. I do not believe that they will call Gosford again, I do not believe that the packet will be produced.'

What did the learned counsel mean the jury to understand? Why, of course, that the document was in existence, and that the defendant challenged its production, and yet the learned counsel knew from his own cross-examination of Gosford

that he had distinctly sworn he had destroyed the document when he thought Roger Tichborne was dead and gone. I must say that is not an ingenuous statement. I say that Serjeant Ballantine ought not on that occasion to have led the jury to suppose that Gosford had admitted the possession of the document, and might have produced it if he dared. He ought to have stated that Gosford had most distinctly declared that he had not the document.

Now comes the examination of the defendant on the sealed packet by his own counsel: 'Before I went abroad I gave a sealed packet to Vincent Gosford. I read it over to Gosford when I wrote it. It was in his own parlour at Cheriton. I read it over to Gosford before I left England.' He is asked, 'What is it?' and he answers, 'That is a private matter merely.' Then the examination in chief proceeds: 'All I ask you at present is this—Do you know, and are you able to repeat, the contents of that sealed packet?' The answer is, 'I am, but I decline to do so.' Now, you see, as the matter was stated upon the affidavit and upon the examination, the defendant would have appeared to know the contents of the packet, but would have avoided the discredit of openly compromising the woman whom he was prepared to declare he had dishonoured; and yet it would have the effect of compromising Mrs. Radcliffe, and of damaging her as a witness against him, seeing that he had told out of Court the same story he afterwards told in Court, and that this statement of his had become generally known. We know it had become generally known. It had been talked about in Winchester; it was as well known in London as anything could be that the sealed packet had reference to Mrs. Radcliffe, and stated circumstances relative to her which of course everybody would understand. So that the defendant, by declining to tell the contents of the packet, would have all the advantage without any of the odium necessarily attaching to the disclosure of such circumstances.

The Attorney-General knew too well to accept that position. He knew very well that neither in the interest of his client nor of Mrs. Radcliffe could the matter be left there, and he was determined, and very rightly, to drag it into the open day and in the interests of justice, as well as of all the parties concerned, to have the decision of the jury taken upon it. The Attorney-General accordingly says, 'I know what you refer to. I make no objection to your openly stating it.' But Serjeant Ballantine says, 'O, no, not now, we had better postpone it.' The matter was dropped for a time, but on the cross-examination it was taken up by the Attorney-General, who asks:

'Did you go to Gosford on the subject of your cousin more than once?—I used to see him frequently. I ask you whether you consulted him on the subject of your cousin, Miss Doughty?—I did. I wrote a paper in his presence, read it over to him, and then sealed it up. That was in November?—I cannot speak to a day. I did not write it from his dictation. The words were my own. It was after my final parting with my cousin. Did you ever give her a copy of it?—Certainly not. You merely told her the purport of it?—That is all. At least, I don't know whether I told her the purport of it. That was a thing separate from the will altogether, and to be carried into effect in certain circumstances. Do you recollect writing to any one that your private wishes and intentions, as you intended to have them carried out, you had left with Mr. Gosford? Did you write

that to Mr. Slaughter?—I might have done so. I think there was an allusion to the will. Were there any wishes or intentions you had left to Mr. Gosford besides the sealed packet?—Yes, there were. I have written them out and my counsel holds them. I told you before I am very reluctant to go into these matters.

The object of the Attorney-General is to fix the defendant to one packet, and a long examination is gone over to get it firmly fixed that there was but one. The defendant, however, says there was a second paper—‘I left two papers in one packet. I mean to say there were two.’ Then the Attorney-General points out to him this remarkable circumstance—that as the affidavit was drawn up originally the words were ‘documents’ in the plural, but that the ‘s’ was struck out and initialed in the margin by the gentleman before whom the affidavit was sworn, so as to show distinctly that the affidavit had reference to one single document, and not to two. Then the Attorney-General tries to fix him to this fact, but when the question is put to him he says, ‘I believe both documents related to my cousin.’ After a great deal of examination, this result at length is obtained, that the document, whether consisting of two pieces of paper or of one, had reference to his cousin, with this exception, that part of it related to instructions about the property.

Meantime the cross-examination has reference to matters of exceeding moment. You remember that in the affidavit he said the opening of the packet was to depend upon a double contingency—one an event which he knows has not happened, the other an event which he hopes has not happened. The Attorney-General asks, ‘What is the event which you know has not happened?—My return, of course, within the time stated. What time?—Before she was married. It must have been that. Is that what you swear?—Well, I don’t know; I put that in.’ Afterwards he says, ‘The event was my death. I knew that had not happened. That is what I swear.’ He is pressed a good deal on this contradiction, but he explains it by saying that when he said it was the marriage of his cousin he really could not remember for the moment.

Now comes the far more important question as to the mysterious event which he hoped had not happened. The Attorney-General asks,

‘What is the event you said you hoped had not happened?—I said before I was reluctant to go into some matters, but if I am compelled, the responsibility must be on the Attorney-General. What is the event which you hoped had not happened?—You ought not to compel me—you compel me to be irregular. I repeat again, what is the event which you hoped had not happened?—The confinement of my cousin. Do you mean to swear before the Judge and jury that you seduced this lady?—I most solemnly to my God swear I did.’

Was there ever an appeal made to God under such circumstances? I could understand that, in his assertion of his innocence, a witness, or any one else, might appeal to God, but it is the first time I ever heard God appealed to by a man who is making an assertion of a most heinous and wicked sin. A man who stands forward and says he has committed seduction in its worst form—seduction which brought dishonour to his own family, seduction to the disgrace of those who had been a second father and mother to him, upon whom, as well as upon their daughter, he had brought, if his own account is true, dishonour, shame, and discredit, the mother being still alive

to hear that statement which thus struck at the character, the honour, and the virtue of her only daughter. I cannot conceive a greater desecration of the name of God than that He should be appealed to to bear witness to an act of so detestable a description. There are certain forms and circumstances in which immorality appears which even those who are most lenient and most indulgent to the frailties of men can only look upon with detestation and horror, and I say that the worst form of immorality of which a man could be guilty is that of one who abuses the confidence of father and mother to dishonour their only child, and who then says, whether or not it brought about a state of circumstances which could only end in her shame and ruin for life, leaves her in uncertainty, and never condescends afterwards to make the slightest inquiry as to whether the fears of the girl are likely to be realised or not. This conduct can only cover him with confusion and shame, and though he might have appealed to God for mercy and forgiveness, he should never have desecrated the name of the Most High by appealing to Him to witness the truth of so scandalous an act.

Then the Attorney-General requires particulars of time and place, and in a case of this kind circumstances of time and place are everything, otherwise a woman is at the mercy of the man who brings an accusation of this kind against her, just as in the converse case, where a woman makes a charge against a man—and we meet many such cases at the Assizes—a man is at the mercy of the woman, unless circumstances of time and place are carefully attended to. And we do attend to them, otherwise justice never would be done, and innocence, too often assailed unjustly, could never be vindicated. It is manifest, therefore, that particulars of time and place are of the very essence of an inquiry of this sort; and when I take you into the circumstances of time and place as regards the statements made by the defendant, and the observations that arise upon those statements, I am sure they will have your most careful and watchful attention. For you have here a double duty to perform—a twice sacred duty. It is not here a question between the prosecution and the defendant; but here the accused becomes the accuser, and in a matter in which the honour, the position, and the happiness of a woman are concerned, you must enter upon the inquiry with the recollection that you are fathers, husbands, brothers, and that therefore you know what a woman’s honour is, and what it is worth; and, whether it becomes implicated incidentally in an inquiry of this sort, or is assailed in any other form, you are bound in justice to give the most careful attention, in order to see that the charge, if true, is proved to be true, and that, if it be false, it must be pronounced and declared to be false. Therefore, I am sure you will go most carefully into this part of the inquiry.

It is true it is not one which goes to the very root of the case. The defendant might be Roger Tichborne as far as this part of the inquiry is concerned. It might be that Roger Tichborne has brought forward this charge falsely; it may be that it is true; that is an important issue in one sense, and must have your most careful consideration independent of any effect it may have on the main issue of the case. And now let me ask you to listen carefully to the statements made in respect of it. The defendant is asked:

‘When and where did it happen?—It happened

at the mill. When?—Not long after I came from Ireland. When?—About the month of July or August. Of what year?—52. Give me some nearer date than that.—It was about the latter part of July or beginning of August. Was it before or after the breaking off of the engagement by Sir Edward?—Before. You say this happened at the mill. Where is the mill?—Almost facing the house, in the village of Tichborne. What time in the day?—About 4 o'clock in the afternoon. What day in the week?—I cannot tell you that. Were you staying in the house?—I was. How long before the engagement was broken off?—About a week or ten days. Do you mean to say that you left your cousin with child?—No, I don't say so. You left, you know, in March 1853.—I know I did. You say you seduced her in July or August, and before the breaking off of the engagement?—Just so. You have told me you never saw her but once after that, and then in the village.—Just so. And you spoke to her about her confinement?—I didn't say so. Do you mean to say so?—She wished to impress it on me. When and where did she tell you?—To the best of my belief, when I met her in the village after I had been hunting. Will you swear it was?—Yes, I will. Did you make any arrangement to communicate with your cousin from abroad?—Yes; I told Gosford when I went away that any letters I might send I should intrust to his care. Was it before you left England in March 1853, or was it in November 1852, that you left this sealed document with Gosford?—It was in November or December 1852. Then how came you to say that you wrote it and sealed it just previously to your leaving England?—I call that "just previously." Did you ever make any inquiry during the year 1853 whether the event which you hoped had not happened had happened?—No. Did you make any further inquiry after you left England?—No. Did you make any inquiry between November 1852 and March 1853, when you went away?—No; I have spoken of it, I have no doubt, to Gosford. Did you leave this country in 1853 uncertain whether the young cousin whom, as you say, you had seduced, was about to have a child or not?—No; I don't think I did. What do you mean by that answer?—I don't think I left without making inquiries. You have told me you don't remember that you did. I ask you again, did you leave here in the month of March 1853, without satisfying yourself that this young girl was about to have a child?—I never thought she was, myself. That is no answer. Did you make any inquiry?—I don't think I made any direct inquiry.

The next subject of inquiry in the cross-examination of the defendant was, 'What were the contents of the sealed document?' The defendant said he could not remember the whole of them, but that they referred to what was to be done in the event of Miss Doughty being confined, and in the event of his uncle's and father's death. There was a good deal which he could not remember, but he said he had written down the substance of the sealed document on the previous evening in the presence of Mr. Spafforth. The paper, which was read by the Solicitor-General, was in the following terms:

Oberlin. November 1852.

'If it be true that my cousin, Kate Doughty, should prove to be *enante*, you are to make all necessary arrangements for her going to Scotland, and you are to see that Upton is properly prepared for her till I return, or she marries. You

are to show great kindness to her, and let her have everything she requires. If she remains single until I come back I will marry her. In the event of my cousin's death, you are to take charge of the estates on my behalf, to keep the Home Farm, and to repair the cottages at Prior's Dean.

'R. C. TICHBORNE.'

Well, the defendant is asked—

'Is that substantially the substance of the document?—Yes. And there is no substantial thing left out of it?—I don't remember anything else at the present moment. In the envelope of the sealed packet, you have said, were two pieces of paper. Does this document contain the substance of what is written on both?—O, no. Well, what is the other?—Well, I cannot remember everything. You said, in reply to your own counsel, that you were able to substantially repeat the contents of the whole document. Now, I ask you, does the document produced contain the substance of both the pieces of paper?—I have already given it to you. The Chief Justice.—Then be good enough to repeat to us what was in the other document?—The paper I wrote yesterday may be the substance of all the papers for aught I know. [The Attorney-General.—Was there anything else contained in the packet?—Well, there must have been, because there was a good deal more writing than what you have there. In answer to the Chief Justice the Claimant said: I don't say I can tell the whole contents of the document. I don't think I said so. If I did it was under a misapprehension. The Attorney-General.—Do you mean to say that you did not know the meaning of the word "substantially"?—If "substantially" means the whole of the contents of the packet, I was under a misapprehension when I answered. Do you call what is in the packet two documents or one?—I should call it one document on two sheets of paper. Are you able to give us substantially what was on those two pieces of paper?—I have given you the substance of a great portion of it. Is there any material part which you have not given us the substance of?—If there is I don't remember it at the present moment.'

Then we have the document of the 2d of August 1862, which the defendant wrote out as the substance of the sealed packet, on discovering from the cross-examination of Mr. Gosford that the sealed packet was no longer in existence. It is necessary to read this paper attentively, in order to see whether it is capable of being reconciled with the last form in which the defendant gives the contents of the sealed packet. The paper is in these terms:

'Principal Items in Document said to be Destroyed by Gosford.—In the event of my Father having possession before my return, and also dying before my return. He (Gosford) was to act for me and according to instructions contained in document. In the first place he was to have Upton to live at and was to manage the whole of the Estate. He was to keep the Home Farm in hand. He was to show great kindness to my cousin Kate, and let her have anything she required. My cousin give me to understand that she was *enent* and press me very hard to marry her before I left. I did not believe such was the case nor have I since heard it was so I alway believed it was said for to get me to marry her at once. To this my Father tried to persuade me. It also referred to the village at Priors Dean. He (Gosford) was to have cottages repaired and also to improve cottages

general was also to make arrangements for Kate to leave England if such was true. Both Gosford and wife pressed me very hard to marry at once. Other items matters of no consequence. I don't think Mrs. Gosford knew about Kate.

'R C D TICHBORNE.'

Now, let us see what is the sum and substance of the defendant's statement as contained in his affidavit, his examination, and his cross-examination. It amounts to this—that a week or ten days before his courtship of his cousin was put an end to—in the month of July or August—he, being with her at the mill on an afternoon about four o'clock, took advantage of her and seduced her; that some time afterwards, while he was staying at Winchester, having been out hunting, he passed through the village of Tichborne on his way home, saw his cousin, and got off his horse, which he led while he walked by her side; that she then communicated to him her fear that she was with child, upon which he told her that, after what his uncle and aunt had said to him, he could not marry her, but that if, upon his return from abroad, she should still be single, he would marry her then; that he then went to Mr. Gosford's, saw him, and, in the parlour of his house at Cheriton, drew up a document, which, after reading it over to Mr. Gosford, he sealed up and deposited with Gosford, with instructions to him as to what he should do in the event of his cousin proving to be with child; that after that he concerned himself no farther about the matter, and never made any inquiry as to whether there was any foundation for his supposition.

Such is the sum and substance of the defendant's statement. You will see it involves three leading facts—the seduction, the meeting with his cousin, and the deposit with Gosford of the sealed packet, which had reference to the pregnancy which she had told him she was afraid was the fact. The two first allegations—the seduction of Miss Doughty and the subsequent meeting—are positively denied by Lady Radcliffe; and the third—namely the deposit of the sealed packet having reference to the pregnancy of Miss Doughty—is positively denied by Mr. Gosford; and therefore, as the whole must be taken as one entire story, there are two witnesses to one. But that is not conclusive, because the two witnesses might be speaking falsely, while the one was speaking the truth; and we must, therefore, look closely and carefully into all the circumstances.

It is quite obvious that both the accuser and the accused in this matter come before you under considerable disadvantage. The defendant comes before you in the position which a man is necessarily placed in after having taken advantage of a woman's weakness and exposed her shame to the world. If anything can stamp a man with the character of a base dishonourable person, it is this. Nevertheless, there is no rule which may not have its exception, and the question is whether this is one of them. The defendant was placed in a very peculiar position. Supposing this document to be truly what he represents it to be, it is made a crucial test of his identity. He does not at once come forward and say to Mr. Gosford, 'I can prove my identity by telling you the contents of the sealed packet, which nobody except you and me knew anything about.' The matter was forced upon him by the somewhat incautious observation of Gosford, who said, 'If you are really Roger Tichborne, you can tell me what were the contents of the sealed packet you left with me.' It may be said that a man who had only his own in-

terest at stake might say, 'Rather than betray such a secret, I will forego everything;' but the defendant has a wife and children, and I am not at all sure that a man who finds such a matter made a crucial test of his identity and his claim to position and fortune would not be bound to disclose a fact which he would otherwise be bound by a sense of propriety to keep secret. That is the position in which the defendant is placed.

But, on the other hand, let us see the position in which Lady Radcliffe is placed. She, if this statement is untrue, comes forward to prove her own innocence, and there is the general feeling of indignation against the man who places the woman in such a position, and even the sternest moralist might well say that a woman placed in such a position might be pardoned for stating that which was false. Unfortunately this deprives the evidence given upon oath of the cogency which it would otherwise possess. So that, while on the one hand there is a feeling of indignation against the man, there is, on the other hand, a feeling of distrust with regard to the woman. This is the position in which Lady Radcliffe comes here to give her evidence, and we must look on one side and on the other, and see on which we believe the truth to be. Lady Radcliffe is asked:

'You were present when the defendant was examined?—Yes. Was there any familiarity between yourself and Roger Tichborne beyond that which you have told us of this morning?—Never—never. Did you hear this question put to the defendant by the Attorney-General, "Do you mean to swear before the Judge and the jury that you seduced your cousin?"—Yes. Did you hear the defendant say, "I must solemnly to my God swear that I did"?—Yes. Roger would never have thought of such a thing. It is perfectly false—utterly false. Was there one syllable of foundation even for such a rumour?—Never. You heard him speaking of meeting you later on?—That was a fabrication from beginning to end. There is not a word of truth in it. I never saw him after the 22d of June. Did you hear the defendant examined and give details of these matters?—I did. Did you hear his evidence on the subject from beginning to end?—I did. Was there any one syllable of truth in any one assertion he made on any one of these matters?—Certainly not. Not one single word. God knows I am speaking the truth.'

Here is an appeal to God also, but it is an appeal to God to bear witness to innocence—not an appeal to God to bear witness to sin and shame. As I said before, in a matter of this kind we must look closely to the particulars of the transaction to which the accuser speaks. We have got particulars as to the time and place. The time he alleges as the date of the seduction was in July or August, when he was staying at Tichborne. Now, I think it is perfectly clear from the correspondence that Roger was not at Tichborne in either the month of July or the month of August. His regiment was then stationed at Canterbury, and he himself was at that time in his regiment. Always an active correspondent, he at that time was carrying on his epistolary correspondence both with his aunt Lady Doughty, with Mr. Gosford, and occasionally with his father and mother. I have a list of the dates in a series of letters in the months of July and August to show where Roger Tichborne was at that time. Having received a letter from Lady Doughty, which, without formally putting an end to the relations between himself and his cousin, still practically did extinguish

his hopes, he writes on the next day, the 2d of July, to Gosford, declaring his intention not to go back to Tichborne for a long time; and a day or two afterwards he writes to Lady Doughty, in answer to her letter of the 1st of July, declaring the same intention unless a wish were expressed to see him either then or during his leave. Lady Doughty did not express any wish that he should come to Tichborne. Then we have him going to Poole election, and when he is about to return he writes to Gosford and Lady Doughty asking them to meet him at Winchester. On the 13th he is back again in Canterbury, having missed Lady Doughty on his way, and he writes to Gosford again desiring him to send his things as he does not intend going to Tichborne again. On the 18th he again writes to Gosford saying that he has not heard from Tichborne since he received his aunt's last letter. It is clear he had not been to Tichborne up to that time. On the 19th of July there is a letter to Lady Doughty showing he could not have been at Tichborne. On the 30th of July he writes a letter which shows the same thing; and so we come to the end of July. On the 3d of August he writes to Gosford and still shows a determination to avoid Tichborne. On the 7th, he writes to Gosford that he has not heard from Lady Doughty for a long time, and on the 8th he writes to that effect to Lady Doughty herself.

The dates and contents of these letters strongly confirm the statements of Lady Radcliffe, of Mr. Gosford, and of Mrs. and Miss Nangle, that Roger Tichborne was not at Tichborne in July or August; so that in the two months in which it is alleged what occurred between his cousin and himself seems to be impossible as to time. His learned counsel appeared so to treat it and he says that he will not be bound by dates, and though his client might have said the end of July or the beginning of August, it would not signify if it was proved to demonstration that it could not then have occurred, for it might have been during his visit in June. It is true Roger was there in June. He left London on Saturday, the 19th, and left early on Tuesday, the 23d, so that those days were out of the question. There were the 20th and 21st, on which it might possibly have happened.

Then comes the question of place, and the defendant fixes that 'at the mill,' and if there, however, were any doubt about it on cross-examination, it was fixed irrevocably by the answers he gave on re-examination:

'Mr. Serjeant Ballantine.—In the progress of this case there has been a mill spoken of. Is that mill now in existence?—Yes. Is it now used as a mill?—Yes. Where is it situated?—At the end of the village. What village?—The village of Tichborne, adjoining the bridge of Sevington.'

What can be understood by the expression 'at the mill'? Is it in the mill, or some building connected with it, or something outside, or a place separated from it by some hundred yards at least? The learned counsel said 'at' did not mean in the mill, but meant somewhere there, as, for instance, at the miller's house. 'At the mill' might very well include the miller's house. As to its being in the mill, where the machinery was and the work carried on, it would be preposterous to suppose that Roger would take his cousin there. Then it is said it might have been the miller's house, and there, no doubt, there were parlours and rooms upstairs. But what is it meant that what occurred did occur at the miller's house? That is not pretended to be made good on this trial, and for the best of all possible reasons. The house

was then occupied by Mrs. Burt's mother and brother and herself. We are quite sure that if there had been the loan of a room in their house at that time, if Roger and his cousin had asked leave to sit in the parlour, for I do not suppose they would have had the barefaced audacity to ask to have a bedroom placed at their disposal, and they would not have gone to the miller's house without asking leave—you may depend upon it you would have had Mrs. Burt come to tell you the story, and not only that, but it would have been all over the country within twenty-four hours of the time it happened. Besides, just ask yourselves whether it is at all likely that Roger Tichborne—living in the same house, as the defendant represented, with Miss Doughty, with all the facilities which a common residence afforded, if these two persons were so forgetful of what was due to themselves as to anticipate the joys of that marriage which at the time they hoped might occur—would have gone to the mill as the place in which to gratify his passion. It may be said that they did not go there with that intention, and that passion overcame the lover. But it is quite impossible to suppose that they went there purposely. Two people living in the same house are not in the position of lovers carrying on a clandestine correspondence, and with no means of meeting except at some place of assignation. Therefore, if it is alleged that he took her to the mill for the purpose of gratifying his passion, the answer to such a story is its inherent improbability.

But how much stronger does the argument become when you are asked to believe that it was not in the mill or the miller's house, but in an open, exposed place called a grotto that this occurred! A photograph was produced which was said to represent that grotto, and it gave an idea of a place covered in by trees, where lovers might have found a place of shelter and convenience. I cannot give you personal evidence of what the nature of the place is. I only wish you had seen it yourselves. But it is quite certain from the picture and from Mrs. Burt's evidence that any one could walk down there, and would have to pass the miller's house right in front of the window, at the distance of only a little garden. Then they would go down a walk by the river-side, exposed to the river, and a footpath on the other side. You walk about a hundred yards and come to the place, which is not a regular grotto, with an alcove to cover from view persons sitting beneath, but a place where some shells and stones had been put to make it look a little like a grotto. There, Mrs. Burt says, was a rustic seat. You could see the entrance from her house. We are asked to believe that these two cousins went down into the grotto, passing in front of the miller's house, in the broad daylight of a June afternoon, at four o'clock, and that there they gratified their illicit passion. Would a hedge strumpet have done such a thing? Why, gentlemen, here you are dealing with a young lady delicately brought up, trained to habits of modesty and virtue. Do you think it at all likely that she would have submitted to her lover under such circumstances? He was the man whose wife she hoped to become.

Was she likely to have yielded to her lover anywhere? That is the first question. I am told that such things do happen. It may be so. I remember that in the great German play, when Faust reproaches Mephistopheles with the ruin of the girl whom he has seduced, the mocking

answer of the fiend is, 'She is not the first who has fallen.' I do not say there is any impossibility in it; but it does seem a strange thing, when he had parted with his cousin in February—up to that time his approaches to her having been of the most respectful character—that, after spending a few days with her in London, he should go down, and she should be supposed to go with him into this open place, and there to yield to him with a facility of which only the most wanton strumpet would be supposed to be capable. It is for you to say whether this is a likely story or not.

But the seduction forms only one part of the story. The meeting with his cousin at Tichborne is of equal importance. Here again we must refer to dates. The defendant first said this happened in October or November, and then that it happened in November or December. Throughout the month of October the defendant was at Canterbury. In September he was still writing from Canterbury, and he could not have been at Tichborne in September; but I do not know that that is so important, for he does not say the seduction of his cousin occurred in that month. He could not have been at Tichborne in September, because Lady Doughty was staying at Ryde, and Roger Tichborne would have been there in his aunt's absence. Throughout October there are letters of his dated October 3, 5, 6, 10, 15, 17, 23, 25, 28, running through the month, and all from Canterbury, and he could not have left there without leave.

We find him fixing himself at Upton on October 28. During that month there was a correspondence about Roger Tichborne's taking a shooting box in Hampshire. To this his aunt had strong objections, and as she would not tolerate him in the vicinity of Tichborne, it is absurd to say he went there at that time. Could he have gone over from Upton and had a meeting with his cousin? I must ask you to attend to the letters. He writes to Mr. Gosford to have the stables prepared at Upton, and no doubt he sent his horses there. On the 5th of November—having gone to Upton on the 28th of October—he leaves for Paris and does not return until the 13th of November. Therefore, from the 5th of November until the 13th he had been altogether absent and could not have been in Hampshire. On the 22d he writes two letters to Gosford, from which you will be abundantly satisfied that up till that date he never hunted in Hampshire—he could not hunt without a horse and he had no horse in that county. He writes a letter to Mr. Gosford dated Nov. 22, asking him to come to the foxhounds meet at Four Lanes Beanworth, but having posted the letter he looks into *Bradshaw* or some other time-table and finds that to send his horse to Winchester and bring it back, including a night's stay there, would cost him 5*l.*, and he does not think a day's hunting in Hampshire is worth the money. Accordingly he writes another letter of the same date, in which he says, 'I see by looking at the book that it would be too expensive for me to have a day's hunting with the H.H. to-morrow, as the expense altogether would come to 5*l.* I believe that would be too much of a good thing.' Now that shows that he had never sent a horse over to Winchester to hunt with these hounds before that time, or he would have known what the expense was. The next passage, I think, shows very plainly that he contemplated getting some horses:

'I have been thinking that I might perhaps keep two or not more horses at Winchester. As I

am obliged to keep them somewhere, it won't be more expensive for me to keep them there for a fortnight or three weeks than it is here. As to telling me that there is any fox-hunting in this neighbourhood, it is all nonsense. I might as well hire a balloon and hunt for birds. I wish you would let me know if you hear of any stables to be had.'

Now, Gosford had occasion to leave Tichborne to go and look after some repairs to the estates in Buckinghamshire and Lincolnshire. He left on the 26th, as is shown by a letter of Lady Doughty's, written on the 27th to Roger, in which she says:

'Mr. Gosford has gone to Buckinghamshire and Lincolnshire yesterday, and will not return till the end of next week.'

It will be seen, therefore, that Gosford was not there on the 26th. Now, Roger is determined to have a day's hunting before he finally leaves. He has occasion to go to London, and he starts on Sunday, November 28, and takes with him one of his horses. On the 28th he writes to his aunt to say he had that afternoon sent a horse to Winchester in order that he might, on the following Tuesday, which would be the 30th, join in the hunt. From these letters and papers it appears that he could not have hunted on any other day. Yet it may be that what he states did happen may have happened on the 30th, and we, therefore, must inquire into that. It may be that on that day he met his cousin and had this conversation with her, but this is made difficult if we look at the evidence of Mrs. Greenwood. Roger Tichborne, she says, was brought to her house by her husband after the hunt to get some lunch, and as soon as he had something to eat he went off, saying that he had to catch the train at Winchester. Now if that is true, he would not be likely to go to Tichborne on his way to Winchester, as he was pressed for time. When Mrs. Greenwood's evidence is taken into account, it would render it extremely improbable that on this one solitary day on which he could see Miss Doughty, the day of the hunt in Hampshire, he would go to see her. But we must take it in connexion with his saying that he gave Gosford the document contained in the sealed packet. We have it stated in one letter, dated the 26th of November, that Gosford had gone away and would not return until the end of the ensuing week; and Lady Doughty, writing on December 4, adds in a postscript that Mr. Gosford returned yesterday. On turning to an almanack I find Saturday was the 4th of December, which accords with the statement that he was away on the 26th of November, and would not be back until the end of the next week.

On the 6th Roger writes to Gosford and says, 'I am glad to see by your letter that you are back again to fairyland'—making reference, no doubt, to Mr. Gosford's residence. So that we have the fact of Mr. Gosford's return, and that of Roger being still at Upton. On the 6th Roger writes also to Mrs. Greenwood, excusing himself for not coming over to Brookwood, on the ground that he has so much to do in making preparations for his departure to London, and also that he intends going to Paris. On the 8th he writes to his brother, and says he has been out hunting, and has had a good day's sport. He is speaking of a Dorsetshire hunt, and not of one in Hampshire. On the 9th he writes asking Mr. Slaughter to go down and see him. Mr. Slaughter went down. On the 16th of December he writes about his having pursued the poachers on the island. That is rather a ludicrous account of his adven-

ture. On the 17th of December he starts for Paris. At the end of the month he returned to Canterbury, and he wrote from there on the 2d of January, saying that he had arrived there on the 31st of December. Under these circumstances, can you satisfy yourselves that either in November or December, after he left Canterbury, and was residing at Upton, he had a day's hunting, and on his return from hunting went, in consequence of something communicated to him by his cousin, to see Mr. Gosford? He could not have done that, but must have gone back to Upton and made a journey to Mr. Gosford's, and Gosford positively denies that he did so. But the learned counsel said that on the 13th Roger Tichborne wrote to ask Gosford to come and see him at Upton, as he wanted to have conversation with him on private business, and that private business, said the learned counsel, related to Miss Doughty. The date of that letter, however, shows that it could not have related to that lady.

Let us, however, now suppose that time and place did not offer any insuperable difficulties. The defendant says he met his cousin, and she told him she was with child. He says he told her, 'I cannot marry you after what your uncle and aunt have said.' What had they said? It was never stated that anything offensive to Roger had been said, except that they objected to the marriage. Did he wish for the marriage? I think there cannot be a doubt that the man who gave Miss Doughty the document of the 22d of June was in earnest. Roger Tichborne was a good Catholic, and he would not invoke the aid of the Virgin as mediator on his behalf with the All-powerful if he did not desire that his union with his cousin should take place. Is not the very fact of his giving this document to Miss Doughty one of the strongest facts to lead us to doubt the statement that he had at this time seduced his cousin? Would a man, who although not actually religious, yet still had a firm faith in the religion he professed—would a man reeking with pollution, having just before committed an outrageous sin, invoke the Virgin to ask for the blessing of Heaven upon a union when he had desecrated it and rendered it unhallowed by the anticipation of that which only the solemn rite of marriage would sanction? Did Roger desire to marry his cousin? If so, what did it signify what his uncle and aunt had said? Would not the obvious reflection have been, 'If you are in that condition there is an end to all obstacles; your father and mother will only wish to hurry the marriage?' The defendant says, 'I did not believe in the reality of her statement. I thought it only a foolish girl's fears, or something said for the purpose of inducing me to marry her.' But that presupposes that his marriage with her was dependent entirely on his own will, whereas it was the father and mother who stood in the way. Is it likely that she pressed marriage when she knew it could not take place in the Roman Catholic Church without their consent, because a dispensation would not be granted until their consent was obtained?

We go a step further and come to the extraordinary circumstance of his never having in any way communicated with her on the subject or made any inquiry. He did not even ask her to write to him or say that he would write to her. Is all this at all probable? All this you must ask yourselves, because when you have two persons directly contradicting one another, before you decide between them it is necessary carefully to

balance all the probabilities arising from surrounding circumstances in order to see on which side the truth may be fairly deemed to be. Is it likely that a man, having taken advantage of a person so nearly related to him, would not think of the consequences—fatal and disastrous to her and hardly less so to him—but would show himself so extremely indifferent? These things, it seems to me, must be specially taken into consideration. Did he seduce her? Is that your judgment?

Witnesses were called with a view of showing that there was a greater degree of intimacy between Roger Tichborne and Miss Doughty than she has been willing to admit. I think, however, you must be satisfied they could not be right as to the period at which they say they saw this familiarity between them. Therefore I do not think it necessary to go in detail into the evidence of those witnesses. But there is one piece of evidence which struck me as being very forcible. A priest who had been confessor to Roger Tichborne during nearly all his Parisian life was called and asked whether Roger Tichborne had not confided to him the fact that he had recorded a vow to build a church in honour of the Virgin if he were married to his cousin Kate. The defendant had, in the clearest and most explicit way, declared he knew nothing of this priest by name, that he never in his life confessed to him—he ignored Father Lefèvre; but the learned counsel for the defendant deliberately put to the priest the question whether Roger had not confessed to him that he had seduced his cousin. I must say that I agree with Mr. Hawkins that that was a most insidious question, and the learned counsel for the defendant, I cannot but think, was grievously disappointed with the answer he got. He speculated on the probability of the priest replying indignantly that he refused to disclose what passed in the confessional, in which case the learned counsel might have said, 'I did not ask him to disclose the secrets of the confessional, but he might have said that this did not occur, and the fact of his not denying it is proof that it was disclosed to him.' I have not the slightest doubt that that was the view with which he put the question, because the learned counsel was as well aware as anybody that a priest would not disclose what had been confessed to him. However, Lefèvre saw the snare, the deliberate snare, which was laid for him, and he had judgment sufficient to avoid it. He said, in effect, 'Your question is an infamous question. You know it is one you ought not to put to a priest, for every man knows that a priest would die rather than disobey the ordinance of his Church by violating the sacred secrecy of matters spoken to him in confession.' But, he adds, 'I can answer your question. I cannot tell you what is revealed in confession; but I can tell you what is not, and, therefore, I can answer you emphatically that Roger Tichborne did not tell me when he last confessed to me that he had seduced his cousin.' So thus failed an attempt which I hope I shall never see repeated.

But, putting that on one side, and making every allowance for the evidence you have heard that there was, perhaps, a greater degree of familiarity than Lady Radcliffe remembers—is it not very likely that, as boy and girl, when he first came from school in 1849, they wandered about together? And who can wonder at it? There was the park, and the village beyond the park, and the mill beyond the village, and what more?

tural than that these two young people should walk out together, and that little innocent familiarities should pass between them? Would even the most rigid stickler for propriety object to such an acquaintanceship? I only regret that Lady Radcliffe did not at once say when she was cross-examined, 'O, yes, we walked out alone together,' but I dare say her mind was at the time fixed on the latter years of their acquaintanceship after she had grown older. I am very sorry to see that among others who were ready to come forward and cast a stone at her was old Bogle, who says that from his window he had seen these two young people go out together. But after all, as I said before, what does it amount to? So much for the question of seduction and the meeting; and now I come to the third point, which is the sealed packet.

You see there are three distinct statements by the defendant in documentary proof upon the subject of the contents of the sealed packet. The first is that which was drawn up on the 2d of August; the next is that which is contained in the affidavit of February 1868; and the last is that which was drawn up the night before the examination in the presence of Mr. Spofforth, and in which I cannot but think I trace Mr. Spofforth's style rather than the defendant's. This is the statement which he proposed to hand to the learned counsel who was cross-examining, as well as to the Judge and jury. It is impossible not to be struck by the singular inconsistency which exists between these documents. I have pointed out the one in the affidavit, which implies that he gave the document into the hand of Gosford without having first communicated the contents, and that it was to be opened by him, so that he might become acquainted with the contents only under a given state of circumstances. That would certainly be inconsistent with his statement on oath at the trial that he went to Gosford's, drew up the document there, read it over to him, and sealed it. In the first of the two papers which he says were in the sealed packet he states that in the event of his father's having possession before his return, and also dying before his return, Gosford was to act for him, and was to have Upton to live at, according to the instructions contained in the document, and was to manage the estate. Gosford was also told what to do with regard to his cousin in the event of her proving to be *enceinte*. He was to show great kindness to her, to let her have anything she required, and to make arrangements for her to leave England if such should prove to be true. You will there see that everything is made plain, so far as Gosford going to live at Upton is concerned. His living there is made contingent upon the death of the father. At that time the defendant seems to have had the idea in his mind that so long as his father lived he could not dispose of Upton, and therefore all he asks Gosford to do in the event of his cousin proving to be with child is to show her great kindness, to let her have what she requires, and to make arrangements for her leaving England.

Observe what sort of position this poor girl would be placed in if, after he had gone away, she had found she was with child. Gosford, in the state of circumstances anticipated in this document, would have had no place to put her in, none to send her to. Neither would he have had any funds out of which to make the least provision for her. It was only upon the father's death, and when Gosford came into possession as trustee, that he would have any means of doing anything

for this unfortunate lady. I cannot understand what the defendant means by saying that he left this document, sealed up, in the hands of Gosford, in order that Gosford might take the necessary steps for sending his cousin out of England, and do for her what she might require, because he had no means and no power to obtain any. What a position for this young lady! To be taken by her father's steward out of her father's house, and sent to Scotland alone, unprotected, unfriended! That would be a strange state of things. But when he prepared the paper to put into the hands of the jury, without making a public statement in open court, he drew it up somewhat differently. It was:

'Cheriton, Nov. 22.

'If it be true that my cousin Kate proves to be *enceinte* you are to make any necessary arrangement for her going to Scotland; and you are to see Upton properly prepared for her till I return or she marries. You are to show her great kindness. Let her have everything she requires. If she remains single, when I come back I will marry her,' &c.

• Then he is disposing of Upton in his father's lifetime, during which Roger had no power over it whatever. Nay, at that time, Sir Edward was not dead, and did not die until the following March. He was in a precarious state, but he had survived so many shocks that there was no reason why he should not have lived for a long time. So that there were two lives between him and the possibility of his disposing of Upton in any shape or form. The counsel for the defendant says that Roger Tichborne had the mistaken notion that he could do as he chose with Upton. The evidence, however, is just the reverse—Roger Tichborne never had any such idea. It really does appear as if he had confounded the position of the Roger Tichborne of 1852 with the position of the supposed Roger of 1871, and assumed that Roger in 1852 would have had the same power as in 1871. But the Roger of 1852 would have known better. So that it comes to this: Here is a man who seduces another man's daughter, and, being apprehensive of the consequences, and thinking it desirable that the daughter should have a refuge from the father's wrath, he proposes to take the father's house to put the daughter in. And if you could suppose Roger to have been so ignorant of the state of things as to seek to impose a trust of this kind upon Mr. Gosford, if Roger Tichborne could have been such an idiot as to imagine that he could then dispose of the property, Mr. Gosford was not such a fool as to believe any such stuff. In his evidence he says, 'How could I be so idiotic as to suppose I could take my employer's house and put his daughter into it?' Can you conceive a steward, and especially a man of Mr. Gosford's intelligence and sense, taking upon himself thus to act towards his employer? You must consider whether you can believe a story based on such a foundation.

If you look at the former document the difficulty is greater still. She is to go to Scotland. Well, was she to go there under the protection of Gosford? If not, with whom was she to go? The meeting is not alleged to have occurred at a time when Roger Tichborne contemplated an immediate departure from this country. According to the first affidavit, there was some sense in the statement. Suppose a man, finding himself in such a position, called upon to take a journey to a distant country after he had got a poor girl into trouble, would he not tell her to wait till she could

know whether her fears were well founded? Would he not tell her that he would do the best he could for her, and would leave her in the care of a friend who would aid her under the circumstances in which she was herself placed? In March 1853, however, the certainty must have been known one way or the other. At that time Roger Tichborne was about to leave England, but the date would not do, because it was clear that he had never been at Tichborne, and consequently had never had an opportunity for illicit intercourse with his cousin since the month of June or July. So the defendant goes back to November as the date; but, inasmuch as Roger Tichborne did not at that time contemplate leaving England for South America, where was the necessity for betraying his intercourse with his cousin, and revealing the fact of his having seduced her even to so intimate and confidential a friend as Mr. Gosford, until his cousin's fears had proved to be well-founded? It would surely be time enough to confide to others that he had brought shame on the girl he loved when the necessity became manifest. Why should he reveal the secret an hour sooner than was absolutely and unavoidably necessary? Therefore, if the meeting occurred in November it is in the highest degree unlikely that Roger Tichborne would hasten to impart this perilous secret, because there was not at that time the slightest necessity for his doing so. All he had to do was to say to his cousin, 'I hope it is not as you apprehend, but keep me well informed and I will do the best I can to protect you and to set matters right.' It strikes me that would have been the course which every man would have taken, and the fact of the defendant not adopting that course is one of the improbabilities attaching to this case.

Incidentally, in this part of the inquiry arises another one. He says that his father pressed him to marry his cousin. Now, the correspondence distinctly shows that it was not until September or October that his father could have known anything about it. We know that before the end of October Lady Doughty writes to Roger to say that she has written to his father and explained how it was that he no longer came to Tichborne. It was not until Sir Edward and Lady Doughty had set their faces against this marriage that his father became aware of the engagement which had existed. How could his father, under such circumstances, press him to marry her? Then the defendant says that Mr. Gosford and his wife also pressed him to marry. They have both denied it, and therefore upon this question the defendant is directly at issue with the witnesses, with the correspondence, and, as it strikes me, with the facts.

Taking all the circumstances into consideration, from the beginning to the end, do you believe in the seduction? Do you believe in the meeting of the cousins, and in any communication made by Kate Doughty to Roger Tichborne, to the effect of her being, or fearing that she was with child? Do you believe the conversation which the defendant has narrated—that he could not marry her then, but would marry her if she remained single until he came back? Do you believe that he went to Gosford and there drew up anything in the nature of the instructions he has set forth in the two papers which are irreconcilable the one with the other? The learned counsel for the defendant

said that they must be read together. I agree to the extent that they must be read side by side, but I don't agree that the statements in the one govern and control the statements in the other, especially when I find that in one of them Gosford was to live at Upton in the event of his father's death, and in the other that his cousin was to live there in the event of her being *enchantée*. I ask whether any man with a heart in his body would, on such a foundation as that, and with no better prospect or foundation than that, have left and abandoned her without care or regard, and gone in pursuit of pleasure, health, and enjoyment, leaving her here to shame and despair. Can you say he did seduce his cousin? You are bound to look most carefully, with the utmost vigilance and care, into all the details of this story.

The statement of Mr. Gosford is, no doubt, fresh in your recollection, and the circumstances under which the paper was committed to his care I have no doubt are also fresh in your memory. It was at a time when Roger was quite aware of all the difficulties in the way of their future union that he gave that paper. Mr. Gosford says he put the document away and thought no more of it at that time. When he knew that the Bella had gone down he did not at once destroy the document, but on breaking up his establishment at Tichborne subsequently he looked over his papers and found a lot of old letters and papers of Roger Tichborne, which he burned. Amongst those papers was this document, and after debating with his wife on the subject he determined to destroy it. Lady Radcliffe was the wife of another man and a happy mother, and the paper might get into other hands and occasion idle gossip; therefore, I think Mr. Gosford did right in destroying it. He did not know that Mrs. Radcliffe had got a corresponding document. He thought the best thing he could do was to destroy it. The defendant was certainly reduced, on his cross-examination, to the necessity of admitting that he left one packet with Mr. Gosford.

Which is true, the statement of the defendant or that of Mr. Gosford? If the statement made by the defendant be true that he seduced his cousin—if it be true that, in consequence of her representation to him, he drew up this document and left it with Gosford, how is it that that was not put forward until after the interview at the Grosvenor Hotel? When Lady Radcliffe next went down to see the defendant, the first question she put to him was, 'Where did we two last meet?' In what an infinitesimally short space of time he could have brought conviction to her mind if he had simply answered, 'At the mill at Cherton.' He might have said this without imparting any secret to the husband or those who were present, while he would have at once convinced her that he was Roger Tichborne.

Gentlemen, it is for you to take all the circumstances into consideration. Did Lady Radcliffe fall by the act of her cousin, or is that statement a foul, wicked, detestable, abominable slander, resorted to for the purpose of carrying out a great and iniquitous fraud? Judge between these parties, and as you take the one view or the other you will find your verdict on this, which, though not the main issue, is a very important issue in the case.

NINETEENTH DAY, Friday, February 27, 1874.

Gentlemen of the Jury, — We were occupied during the afternoon of the last day we met in considering the answers of the defendant to questions put him in cross-examination relative to the events

Roger Tichborne's life, and the last subject with which was that of the sealed packet. I now go to a different matter altogether, only reminding you before doing so that, irrespective of its own inherent importance as one of the issues in the case upon which perjury is assigned, the relations of Roger Tichborne are of great importance.

Determining the question we were then considering — namely, whether the defendant has exhibited knowledge, or want of knowledge, of the eminent events of Roger Tichborne's life. I now pass to another and a totally different subject, and that is the personal marks which were to be found on Roger Tichborne, and which are to be found on the defendant, as throwing light upon the question of identity.

And, first, are there any peculiar marks on the person of the defendant such as were to be found on the person of Roger Tichborne? The marks may be divided into two heads — marks or personal peculiarities which are congenital, and next those that have been occasioned by external circumstances. Now, the first thing we know of the defendant is that he has a brown mark on his side. About that there is no doubt or question. Had Roger Tichborne any such mark? Because, if he had, although it would not be impossible that two persons should be born with such a congenital mark, it would be a very remarkable coincidence, and in any point of view it would be a very strong circumstance in favour of the man who said he was Roger Tichborne. But what evidence have we that Roger had any such mark? The only evidence that I am aware of is that of Captain Brown, who told you that story of having seen Roger Tichborne part of his bedroom when the latter was too drunk to go to his hotel, and he says he saw the brown mark on Roger's side when he was taking a bath next morning. On the other hand, we have the evidence of witnesses who appear to have had good opportunities of becoming acquainted with the fact as to whether Roger Tichborne had such a mark, and who say that it did not exist.

In the first place, it was clearly a circumstance known to the family, and, what is far more important, it was as clearly unknown to Lady Tichborne. You remember that Lady Tichborne, when the defendant in his letter from Wagga Wagga challenged her recognition by reference to a special mark, makes answer, not at first, but when she is pressed upon the subject by Mr. Byles, and says, 'I know nothing about the own mark. I never saw it, and never heard of it he had one.' The witness Mrs. Thompson, a lodging-house keeper, comes forward and says that Lady Tichborne called on her, and said she was prepared to prove the defendant was her son on reason of the brown mark on his side. There is no person living such as a nurse who saw the mark, and could be called to corroborate the witness, or such person would doubtless have been called; and I am therefore led to doubt the accuracy of her story. Or, if we are to accept it, I must produce a painful impression in my mind of reference to the sincerity of Lady Tichborne,

not as to her being convinced that the defendant was her son, but as to the length to which she was prepared to go to establish the identity. If she knew nothing about this mark in 1866, it is remarkable that in 1868 she was prepared to speak to its existence as a means of establishing his identity. Then there is M. Gosselin, who knew Roger Tichborne from infancy, and if there had been this remarkable spot on his side the probability is that he would have heard of it, but he tells us he never did. Besides never having heard of it, he was in attendance upon Roger constantly during his boyhood, and frequently saw him undressed while bathing while they stayed in Normandy and Brittany, and yet he never saw anything of the kind. M. Chatillon is another witness who must have seen it had it existed. M. Chatillon took him to the swimming baths at Paris, and he says he never saw anything of the kind, nor did he see it when bathing with him in the sea at Pornic. There was also a gentleman staying at Tichborne, Mr. Talbot, who bathed with Roger frequently, but he never saw any brown mark. That is the negative evidence on the subject, and it is for you to say whether Roger Tichborne had a brown mark or not. If Roger Tichborne had a brown mark and the defendant has a brown mark, that would be very strong evidence to show that the defendant is Roger Tichborne. But you must look at the question on the other side. Suppose Roger had no brown mark, and that the defendant has, you could not well have a stronger proof that the defendant is not Roger Tichborne. While in the one case it makes powerfully in his favour, in the other it makes powerfully against him.

Well, independently of the brown mark, our attention is called to one or two other peculiarities of original formation. We have heard a great deal about a peculiar formation of the thumb, and I do not know whether to class that as a congenital peculiarity or not. The defendant has given us no account of how this peculiarity arose. He does not show whether he had it from his infancy, nor does he say how, why, or whence it came. It was only at the late trial that this question of the thumb arose at all, and it is doubtful whether it was not some appearance about the daguerreotypes then produced that first presented the idea of a peculiarity of the thumb. There is no doubt that the defendant has some peculiarity about the nail of one of his thumbs. The question is, is it artificially produced, or is it natural, or the result of accident? It is suggested on the part of the prosecution that it had been artificially produced in order to make the thumb of the defendant correspond with the appearance of the thumb in the daguerreotype. I do not think, however, that it is satisfactorily established. Mr. Holt and Mr. Haden, two eminent surgeons who were called for the prosecution, seemed to think it was a factitious and artificial creation. The matter is comparatively unimportant, unless you are satisfied that Roger had that peculiar formation of the thumb. The question is whether there is any evidence that will at all satisfy your minds as to the daguerreotype showing the exact appearance on the thumb. Whether it is the effect of the light, as sometimes happens in the representation of the extremities in photographic likenesses, I am sure I cannot tell.

But there is no other evidence which I am aware of, except that of two persons, to show that Roger had any such peculiarity about his thumb, and those two persons are Captain Brown and Mrs. Neale, who was the waitress at the inn at Melksham. Captain Brown said that while he was playing at billiards with Roger during those evenings at Rio he saw a peculiarity of the thumb. But that was the thumb of the right hand; while, unfortunately, the peculiarity of the thumb in the defendant is on the left hand. Then Mrs. Neale says she saw it; but when did she see it? More than twenty years ago, she says, she saw Roger Tichborne when he was driven in a tandem to the inn at Melksham by Mr. Spurling, where he had a glass of whisky, and when he was taking it from her she saw the thumb, and noticed the peculiarity.

A Juror.—She put it as on the right hand also. THE LORD CHIEF JUSTICE.—She did. I am obliged to you for reminding me. I had overlooked the fact. She says it was the thumb of the right hand, and that, too, is rather unfortunate. Well, what is on the other side? No member of the family remembers it. If it had been a fact it would be a thing known to the mother, and yet Lady Tichborne never said or was asked a word about it. The defendant, who instructed his counsel to examine him with respect to it, never suggested it to his mother or any one else as a mark of identity. We have had members of the family here one after another, but not one of them ever saw it or heard of it. Well, besides the family, there were the officers with whom he associated, and a great number of other persons, and one or two were placed in circumstances in which it seems impossible they should have omitted to see it if it existed. Lady Rawlinson was in the habit of playing chess with him at Knoyle, and Captain Polhill Turner *courté* at Clonmel, and they must have seen his hands continuously for long periods, but they say they never saw any peculiarity in his thumb. The learned counsel cross-examined some of the witnesses for the prosecution on the subject, but he put very few questions with respect to it to those called for the defence. And from the beginning to the end of this long roll of witnesses there were only the two I have mentioned who speak to its existence, and they placed it on the wrong hand. You are to say whether their testimony satisfies you that Roger Tichborne had this peculiar formation of the thumb. If you think he had, you will give the defendant the benefit of that opinion.

There is another peculiarity to which, in the present state of the Court, I find it very difficult to refer. You will, however, at once understand what it is I allude to, and it seems to rest upon a very similar foundation. There can be no doubt that there is a peculiarity of formation about the defendant. The question is whether there ever was such a peculiarity of formation about Roger Tichborne. The learned counsel seems to me to have confounded—I do not know whether purposely or not—two things which are essentially distinct: peculiarity of formation on the one hand, and virile capacity on the other. There is no evidence to show that Roger Tichborne had any such peculiarity of formation. It is suggested by the defence that he acquired a nickname in the regiment, which would appear to have reference to such a peculiarity; but there was not the slightest evidence of such a nickname. Not one of the officers had heard of it. But the

learned counsel goes further, and refers to the letters of the mother in which she makes inquiry as to whether Roger was married, as showing that she had that in her mind as a test whether the defendant was her son. We turn to the letters, and so far from bearing out the theory of the learned counsel, they bear the very opposite construction. In every one she assumes the possibility of his being married. There is no suggestion to the contrary. Assuming that he had married and had children, she is only anxious to know that his marriage was according to such a form as would prove its legality and the legitimacy of his children.

But the learned counsel assumed that she believed the contrary, and what is more, he suggested—I declare I could hardly believe my ears—that this lady, uncertain whether this man was her son or not, had taken care by personal inspection to ascertain the fact. A more shocking or revolting suggestion, involving the grossest indelicacy, I have never heard made. And then the inconsistency of the learned counsel's argument with reference to this part of the case was of the most striking character; for while he assumed certain incompetency on the part of Roger, and sought to account for the gloomy state of spirits into which he appears from time to time to have fallen, as exhibited in his letters, by the consciousness of this incompetency, and the consequent hopelessness of ever forming a matrimonial union, or being the father of a family—advancing the extraordinary doctrine about the withered leaf which supposed a knowledge of Hebrew on the part of Roger—he, on the other hand, represented Roger as a monster of profligacy, including always the visit to Preston, and as a man leading a most licentious life—incapable of conjugal love, but marvellously ready for any *liaison* in any other direction.

My learned brother reminds me of a matter to which I had not intended again particularly to refer to, and that is, that the learned counsel dwelt most emphatically upon the alleged seduction by Roger of his cousin. It is one of the main points of the case on which he relies, and wants you to believe in, because without it the defendant has exhibited an ignorance of the contents of the sealed packet which would be fatal to him. He is incapable of marrying his cousin, but capable of seducing her. The topic is an unpleasant one, and I do not wish to dwell upon it further. The argument involves so much absurdity and inconsistency that I do not say too much in expressing an opinion that it will not find favour in your sight.

So much for the peculiarities, congenital or otherwise, about the defendant. Let us now look at the other side of the case, and see if there were any congenital peculiarities about Roger which the defendant has.

If we can rely upon the daguerreotypes, Roger's ear was remarkable for a peculiarity of formation. Every ear has a pendant to it, which is called the lobe, being that part of the ear which hangs below the gristly parts, and it is one of the features one very seldom remarks. If you were asked as to your most familiar friend whether the lobes were detached from the cheek or attached to it, I think you would be puzzled to say how the fact was. Speaking for myself, I could not pronounce, as to people with whom I am most familiar, as to whether the lobes are more or less detached from the ear. But as it is at birth, so it remains afterwards, except that they grow with the growth

the person. If these daguerreotypes truly represent the ear of Roger Tichborne, then the defendant is not Roger Tichborne, for the defendant has a well-formed lobe, well detached from the cheek. Roger Tichborne seems scarcely to have had any lobe, and to have had it attached to the cheek. I am not a sufficient judge of photography to know whether, in this respect, you can place implicit reliance upon the daguerreotypes. Evidence upon this point we had very little. Some witnesses have said that Roger had a large lobe. We have here one, or rather, as my brother Luah reminds me, two daguerreotypes, and they both disagree with that statement. If you are satisfied that the daguerreotype truly represents the ear of Roger Tichborne, and if you agree in the principle that the lobe of the ear never changes in after-life, so far as attachment or detachment is concerned, then the defendant cannot be the man he states he is. The evidence on the subject is extremely meagre, and that arises probably from the fact that the ear is not one of the features which generally attracts attention, unless it is extremely large, or, from some other cause, impresses itself upon the memory. So much for the ear of Roger Tichborne and that of the defendant.

Now I come to other marks, that is to say the marks which were contracted after birth, by accident or otherwise, and which were not congenital; and, first, we come to the time when, in consequence of Roger's mother thinking that he was not in good health, applied that cruel process of an issue to him. Was it an issue or was it a seton? It is necessary to establish that fact before we proceed further. Now, nobody has been found, except the defendant, to say that the artificial sore in question was a seton, while on the other hand we have a strong body of evidence to show that it was an issue. The defendant has said that it was a seton, and he has pledged himself not only to the fact, but to the details of the process of keeping it open—namely, by movable threads. Was that the case or was it not?

We have had several witnesses upon that point. The first is the old French servant, Gossein. He says that while Roger was quite a child this issue was created in his arm, and adds that having occasion to pass through the room where the boy slept in order to go to his master's room, which was immediately beyond it, he frequently saw the nurse dressing this sore, and he gives a description of it. He calls it *cautére*, which is the French word for an issue; while *seton* is the French word for a seton. 'I have never dressed it,' says he, 'but I have seen the pea put by the nurse in and bandages applied.' This issue was kept open from 1834 or 1835 until 1838. Mrs. Nangle tells us that she saw it, and says that on one occasion, when she was dining at Upton, the little fellow came in to bid her good night, and asked her if she would like to go and see his *cautére* dressed. She went to the boy's bed-room and saw it dressed. She says: 'I was acquainted with the process, because one of my sons had one. It was perfectly awful in the case of Roger. The flesh was quite raw, and the hole was big enough to put the tip of my little finger in.' Mr. Henry Seymour says he never saw it, but it was well known in the family that it existed. He adds, 'It was done with a pea. I never saw the pea; but I remember my mother complaining of it, saying that she wished it stopped, alleging that it was a foolish plan of the French doctors, and urging Lady Tichborne to have it closed.' Then he is asked a question in examination, which I should have thought

common discretion would have led the learned counsel for the defendant to avoid. Having got the fact from Mr. Seymour that this was an issue, in medical language, and distinct from a seton, he gets from him the fact that in the family it was always talked of not as an issue but as a seton. A dangerous question for this simple reason—that if it was always talked of in the family as a seton, that fact may have suggested the adoption of the seton by the defendant instead of an issue, which was undoubtedly the thing Roger Tichborne had. Well, the next witness is Chatillon. He accompanied Roger and his father to England in 1838, when Lady Doughty was so shocked with the miserable appearance of the poor boy with the running sore on his shoulders, that she pressed hard to have it closed. His father assented. The doctor was sent for, the pea taken out, and the sore allowed to heal. Chatillon says, 'I dressed it all the time I was in England until it was closed. The mark remained always afterwards.' Lady Doughty says, in her deposition, 'I remember my nephew coming to England in 1838. He had an issue in his arm at the time. It was kept open by two peas. There was only one sore. The peas were taken out, and the sore was allowed to close.'

Now, what says the defendant when he is first examined about this? He makes two most serious mistakes; first, as to the nature of the sore, and next as to the process by which it was kept open. He was examined by his own counsel, when he said that the seton was created when he came over to England to attend his uncle's funeral; that it was on the left shoulder, and was dressed sometimes with one thing and sometimes with another. Then, in cross-examination by the Solicitor-General, he said, when reminded of what he had stated previously, that he did not think the seton was put in at that time; he thought it must have been some years previously, and goes on to say,—"To the best of my memory it was done in France." Next there was a good deal of questioning about the ivy-leaves with which he said it was dressed, and he said he thought they were got at Upton. Then he is asked if he had seen Moore since his examination in chief. The object of that, of course, was to lead to the inference that Moore, who was servant to Sir Edward at the time Roger was at Upton, and who had heard the defendant in his examination speak of the sore, had told him he had made a mistake, and that, in consequence, there came about the change in his statement as to the time at which the seton was put in.

I now come to that which is more material—viz. what sort of thing the seton was. He was asked that question, and he replied:

'It was merely a thin thread of silk or worsted, I don't remember which, put through the flesh, and left in. They were left in a long while, and I think they were taken out ultimately. It was dressed from time to time. I am not aware that anything was done to keep it open, but the threads were kept movable. I really do not remember when I had the seton closed up. I do not remember with whom I was staying at the time. It occurred at Paris. The effect of the seton was to relieve me from spasms of the heart, which I had been suffering from. I have no recollection as to how long it took to heal up. It was kept open for several months. It does not surprise me to hear you say that Roger Tichborne had not a seton in the shoulder at all, but had an issue in the arm, which was kept open with peas. It was not so—it is false.'

There we have a most distinct statement by the defendant that it was not an issue kept open with peas that Roger had, but a seton with a piece of silk or worsted passed through the two orifices, so that the thread could be pulled up and down, as he states was the case, to keep the sore open. If this was in reality an issue, and it was kept open, of course it must have been a constant source of pain and annoyance to a young boy, who would be worried by this painful process, and who would not be likely to forget such a thing. The defendant takes upon himself to say that he has knowledge and memory about it. He does remember it, and, so saying, he describes, not the thing that was, but the thing that was not. How has he fallen into that error? Probably, as I suggested just now, the defendant, having heard that in the family it was called a seton, acquired knowledge of what a seton was, unconscious of the body of evidence that would be brought against him on the point. Then the question arises, Has the defendant any such mark? We find two marks so punctured as to present the form of a seton that had been kept open for some time. Are those real marks, or are they of artificial creation, intended to lead persons to suppose that the defendant had marks corresponding with those which Roger Tichborne had?

The surgical evidence agrees on one point—that the effect of a seton, when kept open for any considerable length of time, is to create a complete destruction not only of the skin, but of the tissue below the skin; and that an induration afterwards appears in the interval between the marks where the holes have been—an induration that can be felt on the person's shoulder. Of that, we are told, there is no trace in the defendant's shoulder. It is true the medical authorities say that if you put a seton on for a short time only—if you stop it after a few weeks or months—a sufficient destruction of the superincumbent tissue might not have occurred, and the consequence might be that, in process of time, the whole thing would heal again. But all the medical witnesses agree in this that, suppose a sore be kept in active operation for two or three years, the marks of it would remain for ever afterwards. There is no trace of hardness, or induration, on the shoulder of the defendant. Therefore, those two marks cannot have been produced by a seton kept open for such a length of time. Did the defendant put it there purposely in order to make marks to correspond with those Roger Tichborne had? It is suggested that Roger first tried the seton, and after a short time discontinued it. But that is a mere suggestion, like many other things. Roger had undoubtedly an issue; has the defendant any mark of an issue?

We have had four medical gentlemen before us—on the part of the prosecution, Mr. Barnard Holt and Mr. Seymour Haden; on the part of the defence, Sir William Fergusson and Dr. Wilson. The evidence of Mr. Holt on this subject was that the marks on the defendant's shoulder were not the marks of a seton, because the intervening space between the marks is perfectly natural, and shows no trace of induration. There was no indication of a tape or thread having been passed under the skin between the marks. He describes an issue as being a destruction of the skin and the tissues below the skin by caustic or burning, and the sore thus caused being kept open by peas, the object being to create a running sore. When the sore is allowed to heal a scar would remain; no lapse of time could obliterate it, and a man would carry it to

the grave. The mark on the defendant's shoulder was originally put as caused by the French system of vaccination. In the former trial it was so described, and before that, when Colonel Lushington introduced the defendant to Colonel Greenwood in the railway train, the mark was pointed out as the result of foreign vaccination, and as intimating that he was Roger Tichborne, born in Paris, and vaccinated there. And so it was always talked of, and so Sir William Fergusson, at the former trial, accepted it. In the present trial, however, it was first started that this mark on the shoulder was the result of an issue, and questions have been put to the witnesses with a view to establish that as a fact. Mr. Haden is asked about the mark, and he says he is unable to account for it. It was not, he said, the result of any surgical operation known to him; he could not tell how it was made—it was beyond his surgical experience.

When Sir William Fergusson was in the box, the learned counsel put the point strongly to him. Sir William said he had been told that there was a seton, and he saw these two marks, but did not recognise them at once as being caused by a seton. There might have been a seton, he said, but there were no strong indications of it; but, being pressed, he says he should lean to the opinion that there had been a seton there. 'I rather lean,' he says, 'to that view.' Then comes a question with reference to the larger mark on the left shoulder of the defendant, which the witness says was a scar in the usual vaccination place that probably would require a shilling to cover it; but it might, he thinks, have been caused by an issue. In cross-examination, he does not admit that an issue must necessarily have destroyed the skin. It is curious that throughout the long course of the cross-examination the answers are of a very scientific character, but science sometimes in its practical application uses very confused language—or, rather, language which to the mind of a layman does not carry anything very intelligible with it. I read the evidence through yesterday, and, although no one has a higher respect than I have for Sir William Fergusson as a great surgical and scientific authority, I must say I never read anything which was to my mind more perplexing than the evidence on this point. Sir William goes into a variety of speculative possibilities, out of which I confess I cannot get at any very clear understanding. I say it with the greatest possible respect for Sir William Fergusson, but all those possibilities seem to go in one direction. I do not wish to draw any invidious comparisons, but the evidence of Mr. Barnard Holt and of Mr. Seymour Haden is clear, distinct, and precise. You know what they mean. I do not mean to say a word against Caledonian caution (a laugh), but the fact to which I have referred may have arisen from that. You know that people of Scotch origin, as we are, are said to be a little over-cautious, and very great caution at least is exhibited here. One thing is quite clear—that up to the time this theory as to the issue was started, Sir William Fergusson looked upon this mark as having been caused, as the defendant represented was the fact, by punctures from vaccination. The witnesses for the prosecution say it cannot have been an issue. Mr. Holt and Mr. Haden both agree as to that, but Dr. Wilson comes forward and says that it may have been caused by an issue. With respect to the other marks, Dr. Wilson goes a great deal further than Sir William Fergusson.

for he says there is some induration to indicate the real existence of a seton there. He describes the mark.

I got rather tired of this scientific jargon, and asked whether there was the mark of a pea issue. That is a question which might be answered 'Yes' or 'No'; but the witness says, 'It is not the mark of a one-pea issue. It could be made with some substance that would cause irritation underneath.' I interpose and ask whether the mark could have been caused by an issue kept open by a pea. He replied that it would depend entirely upon what substance was used in keeping the issue open. It comes to this, that if you have two or three irritating substances you may get the sore into a greater state of irritation. Mr. Holt and Mr. Haden say, and especially Mr. Haden, that it is not such a mark as would be produced by an issue sore at all. Among these conflicting opinions you must form your own judgment. If the mark was the mark of an issue, and Roger Tichborne had an issue, then it would tell very strongly in favour of the defendant if he could show such an issue. But we are in this difficulty: if there was such a mark on the defendant—if he really had an issue—we might suppose he would have had some recollection of it. What the defendant says is that he had a seton. The question is, whether the reasoning of Dr. Wilson will satisfy you against the evidence of Mr. Holt and Mr. Haden that the defendant had an issue and also a seton.

We now come to another and equally important case of marks on the defendant. We know that Roger Tichborne was frequently bled. We know that he was bled after the accident at Pornic. We know that he was bled at Stonyhurst, for the doctor's books were produced, and we know that he was bled at Waterford. Whether he was bled elsewhere in Ireland we do not know. We know, too, that he was bled at Canterbury. One arm was tried after another, and one ankle after another, without blood coming. Dr. Moore then asked if he should open the temporal artery. 'Open anything,' said Colonel Bickerstaffe, 'he is dying.' Mr. Haden, with large experience, is of opinion that the mark of a puncture by a lancet is indelible. Mr. Holt does not quite go that length, but he believes that only after a very long course of years the marks after bleeding could be obliterated. Sir William Fergusson does not go further. The marks of bleeding, he says, generally remain. Dr. Wilson thinks the marks of bleeding may be effaced. He says he was bled two or three times in the South Sea Islands, and that the marks, or some of them, have gone. They are all agreed that it takes a very long time indeed for such marks to disappear—much longer than has elapsed since the time Roger Tichborne was last bled.

Are there any marks of venesection to be found on the defendant such as one might expect to find on Roger Tichborne? Mr. Holt has examined most carefully, and says that on the right arm there was no trace, nor was there any on the left. Then, with regard to the ankle, he says: 'The scar found on the inner side of the right ankle is certainly not the place where they usually bleed, and there is no vein there for bleeding.' Then, in reference to the evidence of Colonel Bickerstaffe that Roger Tichborne was bled in the temporal artery at Canterbury, the witness said that he had not examined for it, and had no opportunity of forming a judgment, but if allowed to so he would look. Well, Dr. Kenealy did not so to answer that challenge, and accordingly

Mr. Holt stepped down from the box, examined the defendant, and told us that there was no mark of bleeding of the temporal artery. Mr. Holt tells us that he examined the marks of punctures on each of the defendant's ankles. He found an indentation, which is the result of ulceration, but when put to the marks of venesection, he says they are not in the place to which a surgeon would resort for the purpose of bleeding. The veins which pass up the leg from the ankle are well defined, and these punctures are not on the saphena vein, to which a surgeon would apply the lancet. No surgeon, he says, would dream of placing punctures to produce bleeding where the marks the defendant bears are, as they are not on or within two inches of a vein. The witness says, 'I examined him specially on the arms for marks of bleeding, and there were not any.'

Dr. Kenealy having asked Sir William Fergusson whether he had observed any marks of bleeding near the left elbow, he answered, 'Very indistinctly.' Upon this I asked him whether there are marks, distinct or indistinct, and he says, 'I should say the marks are very indistinct.' 'But are there any?' 'Well,' the answer is, 'I could not swear there are.' He could not swear there are any marks either on the left arm or the right. If, therefore, Sir William Fergusson, with all his disposition to serve the defendant if he could honestly do so, could not find any marks of bleeding on the arms, I think we may conclude there are not any. Then he is asked about a scar on the inner ankle of the left foot, and he says it does not look like a puncture, but is rather a continuous scar. Nor was it in a place, he says, where he would try to draw blood, because if he did, as it was over the main artery, that artery would be much more likely to be cut than the vein. In short, the evidence of Sir William Fergusson on this point practically comes to this, that he would not undertake to say there was any mark or puncture which would show there had been bleeding at the place.

But then there comes a gentleman, Dr. Wilson, who does find marks of lancet punctures, and who ascertained that there were such marks by a process unknown to the other surgeons, who state that venesection will leave a mark perceptible to the eye. By drawing the skin towards the part where the marks are sought for, and rotating it gently with the soft part of the thumb, Dr. Wilson says he can discover them by the touch, and that they are more perceptible to the touch than to the vision. He says the skin of the defendant's face is very loose, so he draws it at the temporal artery over the place where he wishes to find the mark, so as to make the skin tense, and then he says he can discover a cut. On being asked whether it is his opinion that the cut was caused by a lancet, he answers, 'It is quite possible,' and he thinks that more than one puncture was made on the artery. But here I was struck by what appeared a very remarkable circumstance. Sir William Fergusson had been examined the day before, and at that very time this gentleman had already discovered that by this process of stretching the skin and rotating it with the soft part of the thumb he could find something perceptible to the touch which was not perceptible to the eye. There was Sir William Fergusson, one of the most eminent surgeons in Europe, and certainly not indisposed to take any trouble to establish the identity of the defendant, if he could legitimately bring his mind to do so, and yet Dr. Wilson never suggests that Sir William Fergusson should have

an opportunity of seeing this process, and saying whether in his opinion the results correspond with what Dr. Wilson says. Nor does the learned counsel for the defence, when he has Sir William Fergusson in the box, say to Sir William, 'Come down and see this process, and say whether your judgment corresponds with that of Dr. Wilson.' With regard to the ankles also Dr. Wilson finds marks of lancet punctures which Sir William Fergusson did not discover. But then this process of Dr. Wilson's was one with which, perhaps, Sir William Fergusson was not acquainted. Dr. Wilson says he was himself bled in the South Sea Islands, and that the marks have disappeared. He says there were three lancet marks near the elbow of the defendant, and that he saw distinctly three punctures around one of the ankles of the right leg, and three around one of the ankles of the left; so that, according to this gentleman, there had been six several digs of the lancet, and venesection had been resorted to six times in the case of this unfortunate gentleman, Roger Tichborne.

I had Colonel Bickerstaffe, who saw the lancet applied to both ankles, recalled, and asked him this decisive question, 'Can you take upon yourself to say that there was more than one incision made on each ankle on the occasion of the bleeding at Canterbury?' And Colonel Bickerstaffe gives me most distinct and positive answer that he saw the surgeon try both ankles, and then he saw him open the temporal artery, and as soon, he says, as the lancet was put into that artery black blood flowed. Now, Dr. Wilson not having sought the support of any eminent authority by whom his views might be confirmed, I ask you, gentlemen, whether his testimony is to be taken against that of Mr. Holt and Mr. Haden, and the equally conclusive evidence of Sir William Fergusson? Roger Tichborne having been bled, and the surgeons saying that it is only after thirty or forty years, even then, the marks of bleeding would disappear, if such marks are not to be found on the defendant it is a very important element in the case.

A Juror.—I think Dr. Wilson found bleeding marks all over the defendant's body.

The LORD CHIEF JUSTICE.—It was Sir William Fergusson who spoke of specks all over him.

Then there is the mark on the back of the head, which the defendant ascribes to the accidental fall at Pornio. With regard to this, Sir William Fergusson thinks there must have been some contusion, and Mr. Holt speaks of it as an incised superficial wound. The defendant, however, knows very little about the fall. But there is a piece of evidence which struck me very much, and that is fact spoken to by one of the witnesses for the defence, who appears to have known Arthur Orton for a good while. He says that when boys were out at play, and that another boy threw a oyster shell which hit Arthur Orton and made an oblique wound on the back of his head, drawing blood. But Chatillon says there was no cut at all from Roger's fall at Pornio, but a deep indentation, because he did not fall on a sharp substance.

Then the only mark which remains of any importance is that on the defendant's arm, which you have seen, and which may have arisen from a variety of causes. It may have been the result of a blow, or it may have been that the skin has been improperly destroyed. The defendant cannot account for it except on the supposition that when he broke his arm a bandage was tied around it to

keep the parts when set in a proper position, and that this may have occasioned some such mark. But then there comes a man, the witness Lewis, who says, 'I did it by running a sharp piece of iron at the end of a stick into his arm.' Sir William Fergusson, when asked on that point, on the part of the defendant, says that the entrance of a sharp-pointed instrument alone into the flesh, as described by Lewis, would not produce such a scar. It could only be produced in case a portion of the stick found its way into the flesh, then a scar might be left as large as that which is now on the defendant's arm. But then, in cross-examination, he says such a wound would have produced a considerable ulceration and inflammation, and would not be cured in the way Lewis describes by a bit of diachylon plaister, which he went to get while Roger Tichborne waited for his return on the Tichborne Downs. It is for you, gentlemen, to say whether the mark is to be attributed to the cause ascribed by the prosecution—namely, the intentional removal of a part of the skin in order to get rid of something which it would be very awkward to have.

And now I come to a piece of evidence which is of the last and most vital importance, because, if you take the view presented by the prosecution, it is final and conclusive—I allude to the tattoo marks. If Roger Tichborne was tattooed, the defendant is not Roger Tichborne. There is no doubt of that. The defendant has no mark of tattooing about him, and he has sworn most positively that he never was tattooed. It was suggested by the prosecution that the last mark of which I have been speaking was caused by the obliteration of a tattoo mark A. O., and, according to the evidence of Dona Hayley and Mrs. Mina Jury, Arthur Orton had his initials tattooed on his arm. The defendant was asked about this, and swore most positively that he never had a tattoo mark, and had never been tattooed on any part of his body. Therefore, we have it quite clear that he never was tattooed, and if Roger Tichborne was tattooed, the defendant cannot be Roger Tichborne. Now, a witness comes forward whose evidence, if believed, is conclusive on the point, and that is Lord Bellow. Lord Bellow was a brother philosopher with Roger Tichborne at Stonyhurst, and he says that one day Roger drew his attention to some existing tattoo marks on his arm, and asked him to tattoo his initials upon the same arm, and that the two lads between them managed to tattoo the letters R. C. T. lengthways on the arm, there being already the tattoo marks upon it of an anchor, cross, and heart, which went across the arm. If that statement be right, there is an end of the case. Lord Bellow is asked:

'Do you remember doing anything to Roger's arm?—Yes. What was that?—I tattooed R. C. T. on it; that is, I did part of it. Do you remember when it was?—I can't say the exact time, it was during the time we were at Stonyhurst. Were there marks on his arm when you tattooed R. C. T.?—Yes. What marks were they?—A cross, a heart, and an anchor. On what part of the arm were they?—The left forearm. Where were the R. C. T.?—Lower down on the arm. Any other marks?—A slight blotch, like a blot, near the wrist. Had you learnt to tattoo before that?—No. Who taught you to tattoo?—Roger Tichborne. And how were the initials tattooed?—With needles fastened to a small piece of wood and dipped in Indian ink, and inserted under the skin. Who else was present when it was done?—I can't remember. This was your first attempt

at tattooing?—Yes. How were the letters done?—Very badly done in a line. On that occasion was anything done to your arm?—Yes. By whom?—By Roger Tichborne. What was done?—He tattooed an anchor on it. I have the mark on the arm. Would you mind showing it?—Not the least.

And Lord Bellow shows it to the jury and the Court. Then he is asked, 'Did you, before you left Stonyhurst, see the tattoo marks on Roger Tichborne's arm?—I cannot say I did, but I have no doubt of it.' There appears to have been some doubt as to the accuracy of Lord Bellow's recollection on the subject, because when first applied to he did not distinctly remember what part of the tattooing on Roger's arm he himself had done. He had a tolerably clear recollection as to what there was on the arm, but as to what particular part he had taken in the production of the marks his memory was indistinct. The question is whether he is entitled to be believed at your hands.

The learned counsel for the defendant has deliberately and emphatically charged him with perjury—that he stated what he knew to be false in saying that Roger Tichborne's arm was tattooed. Upon what grounds did he ask you to disbelieve Lord Bellow's evidence? On the ground that he had committed a grievous sin. Under what particular circumstances we don't exactly know, but undoubtedly another man's wife left her husband to join him, and they lived together for a long time. Dr. Kenealy asks you deliberately to come to the conclusion that because of this said offence Lord Bellow is not to be believed upon his oath. Is that a conclusion which you can properly adopt? Is it because a man has committed a breach of morality on one occasion that those to whom his testimony may be important in a court of justice should be deprived of the benefit of it? In that case, how many persons would be excluded as witnesses from courts of justice? If a flagrant breach of morality is to deprive a man of all credit at the hands of a jury, in what position would the defendant himself be? If seduction in its worst, its most flagitious form should not amount to a disqualification of a witness, why should the sin that Lord Bellow has fallen into destroy his credibility? I do not remember ever to have witnessed in a court of justice a more painful exhibition than the examination to which Lord Bellow was subjected.

I do not believe there are many men at the English Bar who would have raked up that scandal and thrown it in his face. Whether it was that the bitter and malignant spirit to be found in the instructions of the learned counsel may have infused into his mind a feeling of the same bitter malignity towards the unfortunate witness whom he had in his power I do not know, but I shall not easily forget the malignant glee with which the cross-examination was introduced. 'Talking of practical jokes,' says the learned counsel, 'did you ever play a practical joke upon a friend?' Lord Bellow had not an idea of what this meant. 'Did you ever take away your friend's wife?' I saw a bitter, malignant exultation in the learned counsel's face as he asked this question, which Lord Bellow could not refuse to answer, however anxious not to compromise an unfortunate woman. That was the question the learned counsel asked, but we must take Lord Bellow's account of the matter. Though anxious to spare the lady and not to compromise her, he says, 'I didn't take her away. She followed me and left her husband's house.' And, according to Lord Bellow, her husband was a party to her leaving his house and joining Lord Bellow.

Gentlemen, we are not acquainted with the circumstances. Taking another man's wife can never be other than a grievous sin, but it may be less heinous and more venial in some cases than in others. But to come back to the question which I before asked. Are the parties interested to be deprived of the benefit of a man's testimony because he did commit a grievous fault of this description? What if it had been the other way, and if Lord Bellow had come forward and said, 'I recognise this man to be Roger Tichborne because he has the marks which I myself put upon his arm.' How would it have been if the counsel on the other side asked the jury to disbelieve him because of his sin? And yet the same principle will apply to the one case as to the other. There are crimes and offences which savour so much of falsehood and fraud that they do go to affect the credibility of the witness. There are, on the other hand, offences, and grievous offences which, nevertheless, do not touch that part of a man's moral organisation, if I may so call it. There is an essential distinction between these two species of offence. There are offences which go to the root of a witness's integrity and truth, and do disentitle him to be believed.

But the learned counsel goes further. He not only says that Lord Bellow has committed perjury, but he cannot suppose that a man in Lord Bellow's position would have committed perjury for nothing, and that he must have done it for a bribe. Gentlemen, there can be no bribery without two parties—the person who receives and the person who gives the bribe. So that it is not only Lord Bellow that is implicated, but there is somebody behind who pays the price of perjured testimony. I should like to know who it is? Does the learned counsel mean to say that her Majesty's Government have procured suborned testimony? Or is it Mr. Stourton, the guardian of the infant heir, who has done so? Or is it the Tichborne family or the Seymours, who have no more interest in the case than you or I? Does he mean that they have subscribed some large sum to bribe this nobleman to come forward and give perjured testimony? If not, who is it? Is it Detective Whichever or Mr. Bowker who put their hands in their pockets to pay the bribe? Are not such charges open to the strongest reprobation and condemnation as a sad and painful abuse of the freedom of speech which a counsel ought to exercise under the proper restraints and with a due sense of propriety and decency? I rejoice to be able to remember that upon a former occasion a learned counsel, whose zeal for his client was never exceeded, knew how to restrain it. He neither sent the hot iron into the soul of the witness by putting those painful questions, nor did he for a moment hint that Lord Bellow had been guilty of perjury. 'It was quite lawful to suggest that Lord Bellow might have been mistaken, but it never occurred to him to hint that he was perjured.'

Now, the learned counsel who took advantage of his position to abuse the privilege of cross-examination, and to carry that privilege to an extent of license which I never before saw exhibited, by an indiscretion of a most singular character, chose to have brought forward a correspondence between Lord Bellow and Mr. Bowker, which shows that, so far from Lord Bellow having come forward to state something which he did not state from the outset, or something which he had volunteered to state, he was asked by Mr. Bowker the question, and of course he could not refuse to answer, and the evidence he has given, with a very

slight qualification, is the same as he came forward to give. It seems when it was known that the defendant was coming to this country as a claimant, Lord Bellew mentioned to some friend that if he was the real Roger Tichborne he would bear the marks of tattooing upon him. This having become known to Mr. Bowker, who was acting on behalf of Lord Arundell, Lady Tichborne, and the family, he writes a very proper letter to Lord Bellew, dated the 7th of June 1871, in these terms :

'My Lord,—Being engaged on the part of Lord Arundell, Lady Tichborne, and the family in resisting the claimant to the estates, I take the liberty of addressing you.'

He does not say, 'My Lord,—Taking you to be a scoundrel open to a bribe, if you will only swear that Roger Tichborne was tattooed, I will give you 1,000*l.*, 10,000*l.*, or some other large sum.' Quite the contrary, he addresses Lord Bellew in the most respectful manner. The letter then proceeds :

'I understand that your Lordship was at Stonyhurst with Roger Charles Tichborne, and during that time tattooed on his arm emblems, "Faith, Hope, and Charity." The family are well aware that he was tattooed, and if we could ascertain where and by whom he was so marked, it would tend to settle the question. Consequently, if your Lordship would favour me with a letter by next post to this address, it may be of important service.'

Lord Bellew is asked upon that, 'Had you ever said anything about "Faith, Hope, and Charity?"—No, not previous to that correspondence. If you had not so tattooed him, of course you could not have said anything about it?—No. You had never told any one you had so tattooed him?—Not to my recollection. When did you tattoo Roger?—It was while I was in philosophy, which was two years. Was it in 1847 or 1848?—I cannot fix the date. Was any one present?—My impression was that somebody was, but I cannot recall who it was.' Then, Dr. Kenely says :—'You didn't give any exact date?—It was during the time I was a "philosopher" with him. Cannot you give a more precise date?—I cannot fix the date accurately. Was there any one present besides Roger and yourself?—I think there was. I have tried to remember who it was, but I cannot. I believe it was one of the philosophers.' Now comes the answer of Lord Bellew to Mr. Bowker :

'*Barmeth, June 8, 1871.*

'Sir,—I am in receipt of yours of yesterday. I was at Stonyhurst with Roger Tichborne. I remember his having a heart, anchor, and cross tattooed on his arm, also R. C. T. I remember assisting to tattoo his arm, but I find it difficult to remember whether I tattooed the heart, anchor, and cross, or R. C. T. The former were on his left arm, and I am not certain whether the R. C. T. was not on his right arm : but as he had another mark on his left arm above the wrist, that may account for my want of accurate memory on this detail.'

Having used the word 'assisting' in this letter, counsel says, 'There you say you assisted. Who assisted you?—Roger himself, I believe, assisted. You say you were not then certain?—No, I was not certain at that time. What was it made you certain?—I had a conversation with Mr. Seymour. What brought it back to your memory?' Lord Bellew answers, 'I asked Mr. Seymour whether he remembered the marks, and he told me he did, and said he remembered the letters being done unevenly, like a schoolboy's writing, and then the

fact flashed upon my memory that I had only done the letters, and not the other marks. I remembered the marks perfectly ; the doubt was only as to what I had done. I knew at once I could not have done the heart, cross, and anchor. I never had any doubt as to the marks, but only as to the part I had done myself.' He says, when he was first questioned, his memory about the marks was not distinct ; but talking it over with another, the circumstances came back to his mind, and he adds he is almost as perfectly satisfied as he can be of anything that it was on Roger Tichborne's left arm the marks were. 'The only confusion that was in my mind,' he adds, 'was whether I had tattooed the heart, the cross, and the anchor, or not. I could not have tattooed them, because it was the first time I tattooed in my life. I was not in doubt about the tattoo marks, but about what part of them I had done.' The learned counsel says, 'At first you were in doubt about the arm?—Yes, when I wrote to Mr. Bowker ; but the reason was because Roger Tichborne had another mark on his left arm above the wrist.' Then we come to a second letter. Mr. Bowker having again written to Lord Bellew to know more about the marks, Lord Bellew replies as follows :

'*Barmeth, June 15.*

'Sir,—Roger Tichborne was tattooed at the seminary at Stonyhurst when we were philosophers there. I think Roger Chas. Tichborne was already tattooed before he came, but am not sure. I can swear to all the marks on his arms, although not accurate about their history on all points. He had a mark above his wrist on his left arm that looked like a tattoo mark that had been badly done, and merely produced a dim splotch like this (), but not so large, quite.'

Dr. Kenely asks, 'On what arm was the splotch?—On the left arm, about the size of a fourpenny piece. Can you give me any idea how you came to tattoo Roger?—I don't remember how it arose. Boys do many things they don't remember five minutes afterwards. Do you remember where it was done?—I can't swear, but I think it was in my room. Had you known him long?—I can't fix the period. Did you tell any one in the college you had done it?—I can't remember. Did you ever see it again after you had done it?—I don't remember any particular occasion, but I have no doubt I saw it.' Then he is asked as to the position of the marks, and he says that, whereas the cross, anchor, and heart were done transversely across the arm, the letters were lengthways down the arm. In re-examination he is asked, 'Have you the slightest interest in this case?—None whatever. Did you volunteer your evidence?—No. Nor have I the slightest idea how the circumstances came to the knowledge of Mr. Bowker. It is likely I mentioned the tattoo marks to some of my own friends.' Then he says that Roger Tichborne and he were good friends, that he saw very little of him in Dublin, but at Stonyhurst they were very intimate. He is asked whether he received any communication from the defendant since his arrival in this country, and he says, 'None whatever.' Finally he is asked by counsel, 'Have you any doubt that Roger Tichborne was tattooed?' and he answers, 'None whatever, and by myself. I have no doubt whatever that the marks were on one arm.'

Now, gentlemen, you must form your judgment whether Lord Bellew in his account has come forward and committed gross and deliberate perjury in a matter in which he can have no interest, unless you suppose his evidence has been bought or

abominable means. He does not volunteer his evidence, but Mr. Bowker writes to him, and Lord Bellow tells what he knows. By degrees his memory is revived. His conversation with Mr. Seymour in the gallery of the House of Commons, when Mr. Seymour had heard that Lord Bellow had something to do with the tattooing of Roger Tichborne, brings back the circumstances to his mind. Nothing was more natural than when Mr. Seymour met Lord Bellow he should ask him, 'Do you recollect about the marks and the letters being so badly done?' and then that the whole thing should have come back at once to Lord Bellow's memory; so that, as he said, he had the most distinct recollection of it. Now, what was the course under these circumstances it was incumbent on Lord Bellow to adopt? Why, to say, 'If I can throw any light upon this matter by the evidence I can give of a fact so essential to the proper decision of the case, I cannot withhold my testimony.' Everybody is bound to afford such assistance as he can to the cause of justice by speaking to facts within his knowledge, and so Lord Bellow comes forward. If his statement differs substantially from anything he said at first, that is a matter which you may think goes to affect the credibility of his evidence. But if you do not think so, here is the clearest, most convincing, and most conclusive testimony that Roger Tichborne was tattooed, which disposes of the main issue of this case.

But the fact does not stand at all on the unsupported evidence of Lord Bellow, for there is other evidence which goes to show that he is right in his statement that Roger Tichborne was tattooed, and exactly in the way which Lord Bellow testifies—that is to say, he had the three emblems of Faith, Hope, and Charity, the cross, the anchor, and the heart, with the initials rudely and inartistically done upon the same arm. Now, I shall call your attention to the various witnesses who spoke to the fact that they had seen these tattoo marks upon his arm, and I don't think it is possible you can disbelieve them, or accept the explanation which the counsel for the defendant offers. First, I take Lady Radcliffe. Although she may have the deepest interest in this case, which unquestionably she has, she must not be altogether excluded from that degree of credit which she deserves to have. She says that when Roger was at Tichborne preparing for his examination for the Army, and was paying visits with that object to Mr. Moberley at Owlebury, she first saw those tattoo marks on his arm. It was when she wanted some flowers out of the water at Tichborne he turned up his sleeves and she saw he was tattooed with the cross, anchor, and heart. She is not quite sure when she saw the marks next, but she remembers seeing them about Christmas, in the end of 1851 or the beginning of 1852. On that occasion she remembers Roger showing his arm to several friends at Tichborne, and among others, to Miss Weld. She says, 'He said to me, "Let me tattoo you; will you be tattooed?" I said, "No, I don't like it." He said, "It won't hurt you." I think he told us it was done with needles and gunpowder rubbed in. Afterwards he told me he intended to have a cross tattooed over his heart, so that if he died among the Indians they would know he was a Christian. At that time he was full of the notion of going among the Indians in North America.' On being cross-examined, she mentions the names of those who were present when he plucked the flowers out of the water. They were forget-me-nots and water lilies also,

and when the learned counsel said he never saw forget-me-nots growing in water, she tells him they are growing in the water at Tichborne, and he could see them there now. She does not remember whether the sleeves were worn tight at that time or not. She remembers that she had seen the marks distinctly three times.

Miss Weld was mentioned as one of the persons to whom Roger showed the tattoo marks at Tichborne, and she being a nun, Dr. Kenealy observed that she was practically dead and could not be produced. But I reminded him that there was a certain process by which she could be produced, and that a little bit of paper sent out from this Court would open the gates of any convent or any place, no matter how strongly fortified, in England. And so a few days after Miss Weld made her appearance.

Then Mr. Gerald Fitzgerald says that one evening, having gone to the smoking-room with Roger, Roger having put on a dressing-gown, turned up his sleeves and showed him marks on his arm, which he told him were tattoo marks, and mentioned a sailor as having had something to do with them. His recollection of the kind of marks is not distinct. He says they were not a representation of animals, but of inanimate objects, that is all he can tell. All the marks were on one arm, of that he is positive. In cross-examination, he says the fact that Roger was tattooed occurred to his recollection previously to the first trial. When he heard the defendant was coming over he told some friends that if he were the real man he would have those marks. Nobody called his attention to the subject. He remembered the marks himself.

Then Lady Dornier, Roger Tichborne's cousin, says she remembers something on his arm. He was very much tattooed. Her recollection is that the marks were on the left arm, but she will not swear positively. She remembers the initials, the cross, and the heart. She does not remember the anchor. The tattooing extended a great way up the arm, which was greatly disfigured by it. 'When he first showed them,' she says, 'I expressed my dislike of them.' He was very much amused by it. My disliking them did not make him cease to show them, but rather the contrary. When I did not expect it, he would say, 'Eliza, look here,' and then he would show the tattoo marks. That was at Upton. I think it was Lady Doughty who told me there was an anchor. She said, "Do you remember the anchor?" and I said, "I do not." He used to show the tattooing constantly, and make no secret of it. I spoke of it before, for I said it was very foolish for any one to appear as Roger Tichborne who had not those marks. That was before the defendant arrived in England. After he arrived, and I had spoken about the marks, I was advised to say nothing about them.'

Then there is Mr. Reginald Talbot, a boy friend, who was staying at the house at Tichborne ten days at a time during the vacation when Roger was there in 1846, 1847, and 1848. He says he remembers the tattoo marks. As far as his recollection carries him, they were somewhere on the left arm. He recollects perfectly a heart, an anchor, and something else. There was something below, but he does not remember what. It was in 1845 that he first saw the marks. The initials 'R. C. T.' were not there then. Of course, when 'R. C. T.' were on the arm they would make the marks appear larger. In cross-examination he says that the matter was a subject of conver-

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sation in the family before Roger went abroad. When the Claimant first came over, the family said if he were Roger he would have the tattoo marks. There was no discussion of the subject, but it was referred to and spoken of.

Then we have Mrs. Greenwood, who says she remembers Roger telling her a great deal about the tattoo marks, and describing how they were done. She does not remember his showing them to her. She thinks it was before he went into the Army. 'I asked him,' she says, 'about it, hoping he might show the marks to me. I said, "Are not you tattooed, Roger? How is it done? Did it hurt you very much?" He said, "No, not all. Will you let me tattoo you?" I said, "No." He described it as having been done with gunpowder. My idea is he took up his sleeve and showed it to me. But I would rather not swear to it. The idea I have is that it was "R. C. T.," an anchor, and a cross, but whether I saw it or was only told I do not know.' The next witness to whom I will call your attention is Mrs. Whitgrave. She was present on one of the occasions when Roger showed his arm. According to her statement, they were talking about tattoo marks, when Roger Tichborne pulled up his sleeve and showed the tattooing, which was very badly done. She remembers perfectly well the colour, which was very indistinct, so that she could not remember what the marks were. However, she has a perfect recollection of the marks being there. Miss Weld was also present at the time. The marks were something of the shape of a shilling, and went across the arm. They were roughly done.

Mr. Vincent Gosford, referring to the tattoo marks, said he could not call to mind any occasion when he saw them, but he has no moral doubt of their existence. Then Brand, the keeper, speaks of an occasion when Roger Tichborne and he were out rook-shooting, and when Roger in climbing over a fence tumbled among some nettles. He had previously taken off his coat and his shirt-sleeves were turned up. He hung his arms, and while he was rubbing them with a doekleaf the witness saw some tattoo marks on his left arm. The marks were of a blue colour, but the witness could not say what they were. Then we have an important witness in the person of Mr. Scott, the infirmarian at Stonyhurst. He says that upon one occasion Roger drew up his shirt sleeves, and showed him the tattoo marks, telling him that they were done by a sailor in Brittany. To the best of his recollection the marks consisted of a cross, an anchor, and a heart. He is asked: 'Are you quite certain that you saw tattoo marks on Roger Tichborne's arm,' and he replies, 'I am perfectly certain of it.' Father Bigby also saw the tattooing, which, to the best of his belief, was on the left arm. These two Stonyhurst people give evidence which clearly shows that, as far as their recollection goes, they did see marks on Roger Tichborne's arm, and that the marks were tattoo marks.

Another very important witness is Captain Manders, who was with Roger Tichborne in Portobello Barracks in 1860. They lived on the same landing in the barracks, and Captain Manders often saw Roger Tichborne half a dozen times a day. He says:

'I saw his arms often. I was going out hunting one day, and had a long way to go to cover. I went to Roger's room, and found him standing before the glass brushing his hair with both hands, with his sleeves turned up. When I opened the door he turned round, and I saw the marks on his

arm. I saw the anchor distinctly. There were other things, but I don't know what they were. I thought very little of it at the time. I think about three years ago I read something about it, and then I said, "I can recollect that."'

An account was given to us by Colonel Bickerstaffe of the attack of illness which Roger Tichborne had at Canterbury, when he was expected to die. Oddly enough, the evidence of this witness, which proved to be very important, was only got out on cross-examination. Mr. Kenealy says:

'I observe my learned friend did not ask you if you had ever seen his bare arms. Did you observe his bare arms?—I did. Did you observe any tattoo marks?—Yes. When I was first asked about the matter, I said he was not tattooed, and I did not remember anything about it till I saw it in the papers. He had a little cross round his neck, and I thought it was a superstitious thing. Moore said to me, "Look at his arm;" and I did so, when I observed the marks. Did you tell Mr. Bowker or any one about it?—No. What made you think of it?—I don't know whose evidence it was, but the moment I heard of the cross upon the arm, it came to my recollection. He was a very religious fellow, and I thought it was from a religious point of view he had got it on his arm. It was towards the dusk of the evening that he was bled, and he had nothing on but his jersey and drawers. Did you see a splotch on the wrist?—No; but there was a lot of stuff on the arm. Are you perfectly certain in your own mind that you did see tattoo marks on Roger Tichborne's arm?—I am perfectly certain I did.'

Then Major Bott was called for a different purpose, and he says in cross-examination:

'No doubt I have seen both his arms bare frequently. Have you been asked if he was tattooed?—Yes, many times. Have you not always said you did not see any tattoo marks?—I have always said I was under the impression that he was tattooed, but I would not swear to it. What gave you that impression?—I can't answer that.'

Then follows a long cross-examination, in the course of which he says:

'I have been asked two or three times, and I have always said I would not swear to it.'

Burden, who had seen him so often, was then called and asked:

'Did you ever notice any tattoo mark?—I have a positive recollection of them at the present moment. When the defendant first arrived in this country, I had no recollection of it; it had slipped my memory; but as soon as I read of it in the paper, I remembered it.'

Then, in cross-examination, he is asked:

'When was it you first recollected these marks?—When I read it in the newspapers.'

Healy, the man who kept the racket-court at Clonmel, said he had seen him playing at rackets frequently, and had seen him wash after taking off his flannel. He is asked:

'Have you noticed anything on his arm?—I noticed the mark on one of his arms; I cannot tell which. It was a sort of bluish colour, but I could not say what it was. It was not so dark as blue ink. I saw it several times during the six months he was at Clonmel.'

Lastly, as far as the English witnesses are concerned, there is the dying deposition of Lady Doughty, who says:

'I remember he had tattoo marks. There was a cross, a heart, and an anchor, and also initials. I saw them more than once. He said the cross, the heart, and the anchor had been done by a

sailor on the coast of France. He said the initials had been done by a young man at Stonyhurst afterwards.'

That is the last statement on the subject made by members of the family or by witnesses here; but there are two very important witnesses from Paris, namely, M. Chatillon and his wife. On the last day Roger Tichborne ever spent in Paris, he called upon M. Chatillon, his old tutor, to take leave of him. Chatillon was sitting down at *déjeuner*, and begged Roger to sit down with him. While Roger was talking, he gesticulated in such a way that he threw his sleeve back. Madame Chatillon observed some blue marks upon his arm, and she was curious to know what they were. At her request, her husband asked Roger, who pulled up his sleeve and showed them the marks. Both of them agree that there was a cross, an anchor, and a heart; and Madame Chatillon says there were rough initials besides. M. Chatillon afterwards made a drawing of the marks from his recollection, which was correct, except as to the exact positions of the emblem. Madame Chatillon corrected the error from her recollection, and she put the emblems in the position described by Lord Bellow and the other witnesses. That is the entire body of the evidence with respect to the tattoo marks.

The learned counsel for the defendant said, 'I cannot gainsay the testimony of such a body of persons.' Well, then, how is the difficulty to be got over? because the learned counsel admits, if Roger Tichborne was tattooed, the case of his client is at an end. Accordingly, he is driven to seek some explanation whereby he can admit their evidence to be true and yet ask you to believe that there was no reality in the tattooing. His suggestion is that Roger Tichborne, when he found that the exhibition of these tattoo marks on his arm caused surprise and in many instances annoyance to the persons to whom he showed them, had recourse to a sort of fictitious tattooing, but which was not in reality tattooing, by means of a pigment, coloured pencil, or paint; and then, says the learned counsel, he would quietly rub them out after he had shown the marks. That is the theory, gentlemen, which is propounded for your adoption by the learned counsel for the defendant. One point which you should not lose sight of is, that it always occurs to the defendant to draw the same marks, and always upon the same part of the left arm.

But in this course of exhibition of marks, there are one or two instances which would lead one to the conclusion that it could not be done for any such purpose. On two occasions he is taken by surprise. Captain Maunders enters the defendant's room one morning while he is dressing, and as the defendant is brushing his hair with two brushes he sees the marks. Is it probable, as the learned counsel suggests, that the marks had been done the night before for the purpose of amusing his friends? Do you think he had fictitiously tattooed himself the night before and had forgotten to wash it off? At Canterbury, where he is bled, his sleeve is turned up. The surgeon, before using the lancet, calls Colonel Bickerstaffe's attention to the mark of the cross on the arm, and says he thought it had been placed there from some religious or superstitious motive, as there was another cross fastened to his neck. Roger Tichborne was certainly taken by surprise on that occasion, and did not prepare his arm beforehand in order that the surgeon might see it when he came to bleed him. Is it at all likely? We may sup-

pose that with boyish trickery he might have played off these pranks with Lady Dormer or his Aunt Nangle; but when he was with men, with his brother officers, can you suppose such a thing?

It is true there is a considerable body of witnesses who say that they never saw any tattoo marks and that they had more or less opportunities of doing so, and that if he were constantly and permanently tattooed they must have seen it. My duty is to bring these witnesses before you, and you will then have this matter, which is a crucial test, fairly before you. These witnesses may be divided into two groups—those from Hampshire and those from the Carabineers. Gny saw him 'grubbing' up the old oak 'moor' with his jacket off and his sleeves turned up, and never saw any marks; and a number of other witnesses said the same thing. Then a man named Bailey, a horse-breaker, saw him under similar circumstances, helping Colonel Greenwood to build up the cairn over Colonel Greenwood's horse. He saw him with his sleeves turned up, and there were no tattoo marks. Mansby, the under-keeper, helped him to cast bullets, when, having his sleeves turned up, he saw his arms, and there were no tattoo marks. Mrs. Neil, the waitress at Melsham, took him up water to wash, and saw him with his coat and waistcoat off and his sleeves tucked up, and declares there were no tattoo marks. Ann Mines, housemaid in Lady Doughty's service, said he used to come into the kitchen to wash his hands, and on one occasion, in consequence of some hurt to his fingers, she tucked up his sleeves, and she saw no tattoo. Muston was, undoubtedly, a strong witness. He was in Roger's service from 1849 to 1851, and had continually assisted him when washing and dressing, and never saw any tattoo marks. Then Hewitt, the servant of Mrs. Hopkinson, when Roger was staying at Knoyle, says that he was in the habit of amusing himself with the boxing gloves and had sparred with him. He always had his sleeves tucked up as high as they would go, and witness did not at any time ever see a tattoo mark.

Mrs. Legge tells rather a curious story. She says she used to go to the house at Upton when Roger was there in November 1852. She went with the linen about three times a week, and has seen Roger in the butler's pantry at least half a dozen times; has seen his arms bare but no tattoo marks. You naturally ask how that came about, for the butler's pantry is not the place where a young gentleman occupying a house as the master would be likely to exhibit. She explains that he came in from shooting, and used to clean his gun at a sink in the pantry. I do not want to disparage her testimony, but it strikes one as odd that a gentleman with two servants and a keeper should clean his own gun, and that the laundress should see him so often. But, even if she merely saw him with his arms bare while he was cleaning his gun, you must bear in mind that she may not have seen [the inner part of the arm, where the tattoo marks are said to have been. The general position of the inner part of the arm is level with the body, and this inside of the arm would be next the body when he was cleaning the barrel of his gun. If you are satisfied that there were these tattoo marks, one would anxiously wish to see some solution to account for this evidence of witnesses for the defence. There is this remark, which is as old as courts of justice themselves, that affirmative evidence of a fact which persons say they have seen—supposing always that there is equal probability and truthfulness on both sides—is in-

finely stronger than the negative testimony of persons who say they had an opportunity of seeing but did not see, unless, of course, the opportunity of seeing is so remarkable, that it is impossible not to know, as for instance in the case of a surgeon bleeding a man's arm, and being asked whether he saw a mark immediately below the spot where he was able to insert the lancet.

There is Charlotte Grant, who says Roger used, when he returned from trout fishing, to wash his hands in the kitchen, and frequently came in with his coat off. She saw his arms bare, but never saw tattoo marks. She fixes the time as in 1850, and the answer to that is he was never at Tichborne during the trouting season of that year. Therefore that statement must have been untrue. There is a witness of a more serious character—I mean Bogle. He cannot say he has seen Roger's arms bare, but he has sat with him in his bedroom when he had on his night shirt and was smoking. Roger used to rub his arms up and down and the sleeves were not buttoned, but he saw no tattoo marks. From the evidence of this witness it appears that Dr. Lipscombe was examined at the previous trial, and was asked if he saw the marks on the arm. It is somewhat remarkable that, though Dr. Lipscombe was called at the last trial, he was not called at this trial. He could have told us whether he had seen the tattoo marks, or whether he had made a statement one way or the other. Then there is the witness Budden, who was employed at Upton in 1848 and 1849, and who says that he saw the arms of Roger Tichborne bare, but that there was no tattoo. Lillywhite saw him working at getting up the stump of a tree, and Noble saw him working away at the old oak stump, but they do not speak to the tattoo.

Then there are the list of Carabineers who say that they never saw any tattoo marks on Roger Tichborne's arm. Mrs. Ella, the wife of one of the Carabineers, speaks to having seen him in the kitchen with his arms bare, but no tattoo. Sometimes she has taken water to him, and sometimes he has met her in the passage and taken the water from her. Strange to say, on nearly all these occasions he seems to have come into the passage with his arms bare, and she saw nothing. Then there is a man named Robinson, who was formerly in the Carabineers. He has seen him playing at skittles with his arms bare, but has never seen any tattoo marks. The next witness is Margaret Horniblow, who was a servant at Cahir at the time that Roger was stationed there. She has seen him washing and wiping his hands when talking to other officers in the passage, but she never saw any tattoo marks. Again, there is Colonel Norbury, who speaks of one occasion when he went into Roger's room late at night after they had been pulling him out of bed. Colonel Norbury saw him in a loose silk singlet, with a locket round his neck. His arms were bare, and he tells us that he saw nothing in the way of tattoo to his recollection. But at that hour of the night, when they were all joking and tumbling about and trying to get the locket from this young lad, it may have been very likely that the witness saw his arms bare, and yet saw nothing of the tattoo. There is not very much in that.

The next witness is named Bird, and he tells us that on one occasion he went with Roger and his father to the railway station at Cahir to see the father off, and that Roger, having no money with him, asked him to go down to the barracks with him and he would pay him for his services. He says he went back, and Roger, having no change, gave him a note to get cashed. He adds,

'I saw both his arms bare, and there were no tattoo marks on them.' Now, the difficulty in this case is that Roger and his father went away by rail from the station together on the date fixed by the witness, and therefore the story Bird has told is inconsistent. Then there is a man named Munday, a warder in the Chatham Convict Prison, who was formerly in the Carabineers. He on several occasions, after returning from church, had seen Roger Tichborne washing himself. He had seen him bare up to the elbow, but had never seen any tattoo marks. There is a good deal of cross-examination as to the position of Roger Tichborne at the time, and also the position of the washstand. If you will consider in what position a person would stand to wash his hands, you will no doubt feel that this man may be speaking the truth when he says that he saw no tattoo marks, and yet they might have existed. Child is another man who had seen Roger washing himself, and had not seen any tattoo marks. He had gone up to Mr. Tichborne's room and caught him washing his hands. Then there is a great deal of the cross-examination as to what this man had to do in Roger Tichborne's room, he not being a servant.

The next witness is a man named Davis, who sold the fighting-cock. He goes to Roger Tichborne's room and finds him with his shirt off. He was in his company for 10 minutes or a quarter of an hour, but he did not see any tattoo marks. That was the only occasion on which he had seen his arms bare. Old Leicester, the trumpet-major, says he used to go to deliver the officers' letters. He had gone up and seen Roger washing, when, if he had been tattooed, he thinks he must have seen it. George Wild says he had seen him play at rackets and at cricket with arms bare, and had never seen any tattoo marks upon them. A witness named Brittlebank, of the Carabineers, says he saw Roger Tichborne in his room when his arms were bare, and they bore no tattoo marks. George Ella, also of the Carabineers, sees Roger Tichborne when he comes into the kitchen for hot water, when his sleeves are tucked up, but observes no tattoo marks. Another military witness, named Marks, speaks of a foot-race, in which he says Roger ran, with his arms bare to the elbows. If there had been any marks, he says he should have seen them; but he saw none. I may here remark that Roger Tichborne was a man of sallow complexion, upon whom tattoo marks might pass unobserved; whereas they would not pass unnoticed in a person whose skin is fair. A witness named Ratcliffe, also of the Carabineers, says he has been in Roger Tichborne's room and seen him washing his hands, but saw no tattoo marks.

Somehow, all these witnesses happen to be about when he is washing his hands, or something of that kind. There are, however, a good many witnesses who had had the opportunity of seeing the arm bare, and never saw tattoo marks; and you must judge whether those to whom the arm was exhibited for the express purpose of showing the tattoo marks are more likely to be right, in saying they had seen them, than those who, having also had an opportunity, though not so good an one, of seeing them, say they did not observe the marks. But suppose you adopt the hypothesis of Mr. Kenealy that these were fictitious tattoo marks made by Roger Tichborne for the purpose of deceiving people, then the two classes of witnesses may very well be reconciled. Unless, however, you believe that the testimony of Lord Bellew is perjured testimony and that it has been bought with gold, or unless you adopt Mr. Ke-

nealy's new and strange theory that these were not real and genuine but fictitious tattoo marks, the only conclusion you can arrive at must be that Roger Tichborne was tattooed; and the consequences of that I need not tell you.

And now I come to another test which may greatly assist you in coming to a decision—that of the handwriting. You have had evidence on the handwriting in this court, and I ask you, before you finally determine this case, carefully to look at the handwriting of the undoubted Roger Tichborne, of the Claimant as Roger Tichborne, and of Arthur Orton. First, as regards the handwriting of the defendant and Arthur Orton. But before we do anything else we must try to fix in our minds the characteristic peculiarities of the handwriting of the defendant. Now, there are certain letters of the defendant which are peculiarly characteristic, and which it is difficult to think we could be mistaken about. The first of these which strikes me is the capital letter 'I.' You know that letter consists, in the first place, of a semi-circular initial up-stroke, from the top of which, and through which generally, the main body of the 'I' is brought down. Some people make this up-stroke entirely on the left side of the 'I,' others make a little flourish as they are carrying it up, and others, again, bring the main down-stroke through the initial up stroke. The defendant invariably does the latter, and I cannot imagine anything more peculiar than the formation of his 'I's.' It is just as if he were going to make a semicircle, which he does not quite complete, and then brings his main down-stroke through the centre of it. I have desired that some specimens should be found for you, but I do not think those which have been selected are peculiarly happy. Another letter which is quite as characteristic is 'L.' It is more like a crushed Z than an L. I have never seen a letter so peculiarly formed by anybody else. The next important character is the letter 'N.' There are two modes of writing the 'N.' One consists of the letter which is formed as it is when the up-stroke begins at the bottom, but there is another mode of writing it when it is made like a small 'n' enlarged. In very small handwriting the defendant makes a sort of rudimentary loop. You will find that the peculiarity I have pointed out is noticeable in all the defendant's capital 'N's.' His capital 'P's,' again, are extremely remarkable. In writing between lines, if you make a capital 'P,' you bring the main stroke to the lower line; the defendant brings it down and makes it like a small 'p.' His 'W's' are very remarkable. They are like a bird flying with extended and flapping wings. They are very marked. His 'B's' are very remarkable, and his letters generally are characteristic and peculiar.

Now, let me ask you to follow the matter in these letters. The Masters have been good enough to afford you the opportunity of making a comparison between the handwritings of the undoubted Roger Tichborne and of the defendant as Roger Tichborne, and of Arthur Orton.

With respect to Roger Tichborne, his handwriting is as peculiar as that of the defendant. One remarkable circumstance connected with it is the habit he has of prefixing a sort of hook to the words which he writes; so that, if you look perpendicularly along the margin line of one of Roger Tichborne's letters, you will find a series of hooks extending a long way out beyond the line of letters. I do not suppose that anybody ever before saw a handwriting of the same character in that respect. But when you come to look at

the defendant's handwriting, says his counsel, you will find a hook. Well, there is a something, but it is hardly a hook; it is more like a little knob, as if he had rested his hand firmly on the table before commencing to make his up-stroke, and I must ask you to look at Arthur Orton's letters and see whether they do not present exactly the same peculiarity. So with regard to many of the defendant's other letters. If you look at Arthur Orton's capital 'I's'—there are some of them placed here in juxtaposition with those of the defendant—I am afraid you will not find much difference between them. With regard to the capital 'M,' I doubt if you will find any distinction at all. I call your attention to 'The Vow'—

'This day I have received a letter from Donald M'Donald With the Seal Broken.'

I ask your attention to the W in this document, and then to compare it with the W's in the Wagga Wagga letters. Then I ask your attention to the words:

'I Arthur Orton here make a vow on this Book. Although not a Bible. It bear a cross.'

I ask you whether that 'I' is not the same as that of the defendant, and that this document was written by Arthur Orton we know.

'That as I am a man of Bone Blood and flesh. That I will find out the man if possible. That broke the said seal. And that I will punish him according to the laws of My Country.'

'Signed ARTHUR ORTON, Dargo.' And I must call your attention here to the use of full stops instead of commas, which same peculiarity attends the letters of the defendant. The capital 'M's' are distinct. In the words 'Newben Park,' you have the capital 'P' made in the way I have described. Here are capital 'P's' in abundance taken from the defendant's writing. There is no doubt about this vow being the writing of Arthur Orton, and it is for you to judge for yourselves whether the writing in the book is not the writing of the defendant.

When we come to the comparison of Roger Tichborne's handwriting you will see that almost every letter is formed in a different manner. Then again, when you look at the signature, unless Roger has totally altered the character of his writing, it cannot possibly be said to be the writing of Roger Tichborne. Supposing shortly after the loss of Roger Tichborne a man had come forward and said, 'I am Roger Tichborne,' would you have believed that it was the same writing? I asked that question of Dr. Kemealy, and he said no, he could not, but that twelve years may make a man forget the writing he was accustomed to use, and when he is put to write again he will revert to the handwriting of his boyhood. 'I think,' he says, 'you will find a likeness between the handwriting of the defendant and the handwriting of his (Roger Tichborne's) boyhood.' But I consider the handwriting of the defendant as dissimilar from the writing of Roger Tichborne in his boyhood as it is to his writing of later years. I must ask you also whether you do not trace the same style in the writing of both the boy and the man, and whether you can find any resemblance in the writing of the defendant to that of Roger Tichborne. They are rudimentary letters—the letters of the boy Roger Tichborne, says the learned counsel. Does the whole theory rest upon anything but a most shadowy foundation? Do you believe that a man who has not had the opportunity of writing for ten years would forget the writing of his manhood, and go back to that of his

head? He would, I imagine, rather return the handwriting he had written last. Unless I can adopt the theory of the learned counsel, I am satisfied with the explanation he offers, or I say, if you look at the general character of Roger Tichborne's writing and examine that of the defendant, the two will be found as dissimilar as it is possible for one man's writing to be from that of another.

Besides the question of handwriting, there is that of the composition of the letters. Roger Tichborne was not what is called a scholar—not a man of high-class education, but still he was a man who could think, and think, too, upon serious subjects; and he could express himself. He had no lack of fluency of language, but he spelled badly, if you like; and in spelling badly he wrote sometimes ungrammatically, and more often in non-idiomatic phrases, translating from the French into English. But there are none of those gross, uneducated vulgarisms which you find in the defendant's letters. Roger's style is flowing, and the composition in certain cases would do no discredit to an accomplished letter-writer. But the defendant's style is like that of a schoolboy—with short, ping sentences; and there is the perpetual repetition of this phrase, 'My dear Mamma,' totally different from the habit of Roger Tichborne, who never indulges in that except at the beginning and the end of a letter, whereas in the defendant's letters it occurs on an average in every three lines. Here, again, the learned counsel propounded the theory that the state of civilisation in which the defendant so long resided caused him to forget partly how to think altogether how to write. Again, in the defendant's introduction of the small 'i' for the personal pronoun the defendant's writing is peculiar.

In one letter of sixteen lines this small 'i' occurs no fewer than fourteen times. If you take the defendant's graphic description of his passing over the Andes and his ride across the Pampas, and I take the letters of the defendant—unless I am satisfied with the explanation of the learned counsel that the difference is explained by the absence from civilised life of the defendant—that difference is very much against their being written by the same person. Supposing one had risen twelve months only after the other had gone down, and had written like the defendant, would anybody for a moment admit that they were the letters and handwriting of Roger Tichborne? That, however, is a consideration which must be left to you.

When there are characteristics of spelling in these writings. There are hundreds of instances in which both Roger and the defendant make mistakes, but there are only four words in which the mis-spellings concur and coincide. 'Ment' is spelt 'ment,' 'lodging' is spelt 'lodgin,' 'pence' is spelt 'expence,' and 'intend' is spelt 'end.' Both Roger Tichborne and the defendant make a great many mistakes in spelling, but they only have these four mistakes in common. Besides, there is an extraordinary disproportion between the quantity of mistakes in relation to the extent of the correspondence. It is not enough to say that one man has made 500 mistakes in spelling and another has made an equal number, unless you get an equal quantity of writing. Mr. Bates has given us the result of adding up the number of instances in which each mis-spells, fully distinguished between the spelling of one and the other, and pointed out that there are only these four instances in which they coincide.

But it occurred to me that that was not altogether a satisfactory criterion, and I desired that the number of lines should be counted. The Masters have assisted me. I have seen to it myself, and I know it has been carefully done. We know the number of lines in the letters of the defendant, and in those of Roger Tichborne. I have had the mistakes of grammar and spelling carefully collated and compared, and the result is that there are 7 mistakes in 100 lines of Roger's and 57 in 100 lines of the defendant's. Certainly that is very extraordinary. Now, I will point out some of the characteristic mistakes made by Roger Tichborne. He invariably writes 'sais' for 'says.' That occurs 13 times. He writes 'begin' and 'beginning' with an 'i' in the first syllable instead of an 'e,' 'intend' he writes 'entend,' and 'cloths' he mis-spells 'clothes.' Then for 'promise' he writes 'promiss'; for 'relief' and 'belief,' 'relieve' and 'believe'; for 'fortunately' and 'unfortunately,' 'fortunatly' and 'unfortunatly.' The defendant has several characteristic mistakes; 'received' is spelt 'receved' 106 times; 'affidavit' 30 times; 'trouble,' 'troble' or 'truble' 19 times; 'children,' 'children' 18 times; 'few,' 'fue' 9 times; 'necessary,' 'necessary' 5 times. He also spells in a peculiar manner 'enormous' 'a Normous,' and 'enough' 'a Nuff.' I do not propose to go further into these numerous instances, but I must call your attention to one very remarkable word, which appears once in Arthur Orton's letters, and twice in documents written by the defendant. I refer to the word 'Elizabeth,' which is spelt 'Elizaberth.' Here I am obliged to ask you to look, not only at the spelling, but at the handwriting, and you will find that the 'z' in 'Elizaberth' is about as peculiar a letter as is to be found in the whole range of this handwriting. Arthur Orton makes the 'z' come half way up alongside the loop of the letter 'l,' and a long way above the top of the line of the ordinary small letters, and thus it assumes a disproportionate size. The very same peculiarity attends the 'z's' of the defendant.

There are also other peculiarities, specimens of which will be placed before you; and unless you can really come to the conclusion that the explanation suggested by the learned counsel for the defendant is one that is tenable, and is one which reasonable and thinking men acquainted with handwriting can accept, then undoubtedly these letters as exhibited and compared between Roger Tichborne and the defendant show two handwritings as dissimilar as it is possible for two handwritings to be, independently of Roger Tichborne's characteristic habit of prefixing hooks to his initial letters. Moreover, when you come to compare the handwriting of Arthur Orton with that of the defendant, especially when taking the entry of the vow in the book entitled the *Rivals*, you may discover fresh proof in addition to that already given as to Arthur Orton and the defendant being one and the same person. It is quite true that in Arthur Orton's letters you find a cramped and rigid hand, like that of a boy who had just emerged from the schoolroom and the ferule of the writing-master; but at the same time you find there the rudiments of the later handwriting. If you look at the writing in the *Rivals*, you will find it corresponds in some degree with that of the youth Orton; and you must judge for yourselves whether it does not correspond with the writing of the defendant. If you find it does, I suppose that will lead you to the conclusion that the defendant is Arthur Orton. This is all I have to trouble

with on the subject of handwriting and spelling. To-morrow I shall have to address to you a few observations in conclusion, and then I shall leave to you the decision of this great case.

TWENTIETH DAY, *Saturday, February 28, 1874.*

Gentlemen of the Jury,—We have now travelled over the large and extensive range of this case, and the evidence tending to establish the facts on the one side and the other. My purpose throughout has been to place it before you as one great whole, to show you how the various parts of it dovetail, as it were, into one another, and the relation which these parts bear to the case as one great and entire whole; because I was satisfied from the beginning that it was only by looking at it in that light—by seeing the relations the parts bear to the whole, and taking in the whole in one large and comprehensive view—the case could be thoroughly understood, and its merits duly appreciated. Let us now, at the last moment, see whether we can gather together the threads of this somewhat tangled skein, by just passing in review the prominent and salient points which have arisen in the case.

Is the defendant Arthur Orton? We have a strong body of evidence affirming his identity with that man. We have, on the other hand, a considerable body of evidence to show that he is not. In point of numbers the witnesses for the defendant exceed those called by the prosecution. Nevertheless, the evidence of the witnesses for the prosecution, though they are less numerous, may, probably, be considered more weighty, because it includes the evidence of the woman with whom Arthur Orton kept company, and if any one would be likely to have his features impressed upon the memory she would be that person. But then, on the other hand, the defendant has produced witnesses who speak to personal marks upon Arthur Orton which undoubtedly the defendant has not, and if the evidence of those persons could be implicitly relied on there would be an end of the matter so far as the Orton case is concerned. But it is necessary to look beyond the evidence of those witnesses, and to take the whole range of facts connected with the Arthur Orton question. These witnesses may have intended to deceive us or they may, not intending to deceive us, have deceived themselves. They may be applying to Arthur Orton facts and circumstances which possibly existed in one or other of his brothers, with whom, after the lapse of many years, they may have confused him. They may forget that these scars and marks, and the earrings we have heard of, may have been on and worn by one of his brothers, and not Arthur himself.

We must extend the inquiry further. We must follow Arthur Orton to South America. We know that Arthur Orton was at Melipilla. We know that the defendant was at Melipilla. We know that, according to the evidence, there was one Englishman, and one Englishman only, at that time at Melipilla. We find no trace of Roger Tichborne either in the evidence or in the Castro correspondence as being at Melipilla; but in the Castro correspondence we do find that an Englishman was there, and that his name was Arthur Orton, and we find there was but one Englishman. And so it stands thus: There was one Englishman there, and one alone. The Englishman who was there went by the name of Arthur Orton. The name of Roger Tichborne was unknown. It is impossible to suppose that Roger Tichborne could ever have adopted the name of Arthur Or-

ton, because that is probably a name of which he had never heard. We have, then, these circumstances—that there was simply one Englishman there, and that Englishman was known as Arthur Orton; that the defendant was there, and that there is no trace of Roger Tichborne having been there. What explanation can possibly be put forward to meet the inference that legitimately arises from that set of facts?

Well; we must follow this Arthur Orton to Australia. We find him landing at Hobart Town, and at once betaking himself to the occupation which his education and his antecedents render him fitted for. He becomes a slaughterman to a butcher at Hobart Town, and he changes that occupation for the occupation of a stockdriver or herdsman. He passes from Tasmania into Australia Proper; then we find him at Dargo and Boisdale, occupied in the same way—a butcher's man, a slaughterman, or a mounted stockdriver, the same occupation that he followed in Tasmania. Afterwards we hear of him—if we accept the evidence of Hopwood—at Wagga-Wagga, carrying on the same business. Thus we trace Arthur Orton from South America to Tasmania, from Tasmania to Australia, and find him always following the same pursuits. For even the witnesses for the defendant who distinguish between Castro and Arthur Orton tell us that these were the callings Arthur Orton followed. That Arthur Orton was at Dargo and Boisdale we know as an absolute certainty, and the same reasoning which applied to Arthur Orton at Melipilla applies again to Arthur Orton at Dargo and Boisdale. If Arthur Orton was there, and you find no trace of Castro—in other words of Roger Tichborne under the name of Castro—what is the legitimate inference which would follow? The defendant was undoubtedly at Boisdale and Dargo; Arthur Orton, undoubtedly, was there too; there is no trace whatever of Castro—what is the inference? Is it capable of any other solution than this—that the defendant having been there, and Arthur Orton having been there, and no Castro, so far as the evidence and books of Mrs. M'Alister show—is there any other solution than this—that the man who was there was Arthur Orton, and that the defendant is Arthur Orton?

Again, when the defendant comes to England, what is the course of conduct which he pursues? He goes to Wapping the very first thing after he arrives. In what way can that be explained, except on the hypothesis of his being Arthur Orton? Is there any other solution or explanation possible? He keeps the whole matter a secret; he takes care that neither his friends nor his advisers shall know his relations to the Orton family, and when the thing is discovered, or thought to be discovered, he meets it by a denial, which denial he is afterwards constrained to admit was false. Under all these circumstances, and especially when we look to the fact of his marriage, to the Richardson letter, and other things which might not in themselves lead us to the conclusion that this man is Arthur Orton, but which, nevertheless, it is necessary to take into consideration as minor points in the case, what conclusion can we arrive at? His marriage would be perfectly consistent with that of a man in the position of

Arthur Orton; but the Richardson letter, which could easily be accounted for if it emanated from Arthur Orton, could not be accounted for on the hypothesis that it was written or dictated or suggested by Roger Tichborne. All these things are matters for serious consideration, in order that we may determine on which side lies the truth. The witnesses who say they have seen these two persons—Orton and Castro—at one and the same time may be telling you the truth, or they may be deceiving you. But there remain the staggering facts to which I have called your attention. No one but Arthur Orton was at Melpilla; no one but he was known at Boisdale and at Dargo.

Then, again, how can we explain that the defendant told Mr. Gibbs that he had St. Vitus's dance? When had Roger Tichborne St. Vitus's dance? We know Arthur Orton had it from his boyhood. How do we explain all these things? Then the introduction into the Wagga-Wagga will of names known to Arthur Orton, but unknown to Roger Tichborne—how can we explain that? How can we explain, again, that when suddenly called upon to say in what ship he had left England and on what date he had left England, instead of giving the name of the ship in which Roger Tichborne sailed, and instead of giving the date on which Roger Tichborne left, he gave the name of the vessel in which Arthur Orton left, and he gave the date on which Arthur Orton left? When could the knowledge of the ship Jessie Miller have reached Roger Tichborne? An explanation was put forward by the learned counsel for the defendant, which you have heard. If you think it one any reasonable or sensible man could adopt, and if it carries conviction to your minds, adopt it; but if you think it the mere production of a wild and exuberant fancy, do not adopt it.

Let us now go to the far more important question of whether the defendant is Roger Tichborne, because the question of whether he is Arthur Orton is merely subordinate to the still larger question of whether he is Roger Tichborne, and if the question as to whether he is Arthur Orton remains unsolved there will still be left the question to be considered whether he is Roger Tichborne. Let us look at all the facts from the time the defendant came forward. He presents himself after many long years have passed without any tidings having been heard of Roger Tichborne, and when all those connected with him, with one solitary exception, believed that he had long ceased to exist. Then it was that the defendant dropped, as it were, from a summer cloud, and the question naturally put to him was, 'You come to us like one risen from the dead: what have you been doing since you disappeared?' Of course, he is under the necessity of affording some explanation in answer to questions which were so natural. He must afford some explanation before he can invoke the aid of the Courts of Justice to assist him in making good his claim. 'Tell us how you were picked up. Tell us how you were saved. Tell us what has become of you since?' These were the questions put to him, and, beginning with the story of the shipwreck, he tells a story which no man in his senses can believe, and which his own counsel cannot ask you to believe.

The assertion that the captain of the ship walked the deck of that vessel when there was 12ft. of water in the hold, and yet remained unconscious that the vessel was in that condition, is a story which no sailor—I will go further, that even no landsman would adopt. What becomes of him

next? He is asked how they escaped from the vessel, and he tells the story of how they betook themselves to the boats; how all the water and provisions were put into one of the boats—not that into which he got—and how the other boat, in which he was, had to follow it in order to obtain the necessary supplies. Again, that story is condemned, and no man can ask the jury to believe it. And then we have this additional improbability, which of course must be considered, and that is that the boat in which he describes the rescue of the crew with the captain and the provisions is found bottom upwards in the immediate vicinity of the floating wreck of the vessel, so that the supposition of that boat having been rowed away for two days and two nights from the scene of the shipwreck must fall entirely to the ground. No one can believe that story. The learned counsel for the defendant ascribes all these things to the imagination of his client. Then we come to the saving ship, and we have the extraordinary statement that the defendant was three months on board that vessel, and though he may have been ill for some time, he must have been well long before the vessel arrived at its destination; and yet he cannot tell us for certain whether that vessel was the Osprey or the Themis; and he cannot tell us the name of the captain or what was the state of things under which they parted at Melbourne. Then we have the additional and singular fact that from that hour to this, with the single exception of the trumped-up story of Luie, no voice has come either from the sea or from the shore to tell us that any one was either a part of that crew that was so saved, or had been on board the saving vessel—though, according to the defendant's own story, there were numerous persons on board—no one, I say, has come forward to bear testimony to the truth of this story.

The defendant lands at Melbourne. He has to account for the time between that at which he landed there—if he ever landed at Melbourne—till the time he came forward to make his claim. He tells us he was three years and upwards a stock-keeper, first at Boisdale and then at Dargo, and then at Boisdale again. And if that part of the story falls to the ground, if that turns out to be false, what becomes of the superstructure of the Australian life which has been founded and built upon it? And yet, with the evidence of Mrs. M'Alister before us, and with the books from Boisdale confirming that evidence, can you come to the conclusion that the defendant was there, or that, if he was there at all, he was there in any other character than that of Arthur Orton? Is there the slightest trace of Castro there? If the effect of Mrs. M'Alister's evidence and the evidence of these books, carefully kept, and to all appearances genuine and true—if the effect of all this be to satisfy you that Roger Tichborne never was at Boisdale and Dargo at all; if the view you take be that he has adopted the circumstances of Arthur Orton's life there, what becomes of the rest of the story? Three years are wholly and entirely unaccounted for.

But let us pass on. He leaves Boisdale and Dargo and takes to a wandering life. He is sometimes horsebreaking and horsedealing, and at other times he is acting as stockdriver; while again, at others, he is a slaughterman and acting as butcher. Can you fail to be struck with the singular coincidence between that certain life of the one man and the life which we are told was lived by the other? How could Roger Tichborne ever have thought of being either a drover or a butcher

To Arthur Orton these things were natural. He had been brought up as a butcher, and was acquainted with cattle. Must we not take it as strange that the very life we know that Arthur Orton was living was the one adopted by the defendant? Yet so it is. In Arthur Orton we have first the butcher's man and the stockdriver, and then we have him setting up for himself as a butcher. The defendant follows the calling of a stockdriver and that of a butcher's man, and finally sets up as a butcher himself. How should that kind of life have entered into the thoughts of Roger Tichborne? Then you have him wandering about breaking-in horses. Arthur Orton used to be occupied in breaking-in Shetland ponies, and it is only a change from Shetland ponies to horses. So that we have the defendant following exactly the course which Arthur Orton would naturally follow and appears to have followed; and we find him following a course of life which—unless under very extraordinary circumstances such as have not been brought to our knowledge—we can hardly suppose it could have occurred to Roger Tichborne to follow. Then, in addition to that, just look at the life of hardship and toil, privation and distress, through which the defendant, by his own admission, has passed. Upon what possible hypothesis can you conceive that Roger Tichborne would have voluntarily adopted that life? Let it be granted that he was a man of eccentric mind—and of that we have no proof, except the supposed fact of his going to lead this life—let it be supposed that he was a man capable of betaking himself to a wild and adventurous life; that he was sated with the pleasures and enjoyments of life here, and wanted to lead a wild and adventurous life for a change. But was this a life of adventure? For my part I can see no trace of it. Was it a life a man would adopt from any of those strange but still exalted feelings which have induced men to desert society and betake themselves to the desert? Nothing of the kind. It was exactly the life that Arthur Orton would have led. It was exactly the life that would have been led by any one under similar circumstances who may have gone out to find employment in the New World which he could not find at home.

We must follow him further on. The defendant makes a marriage which it is impossible to suppose that Roger Tichborne would have made unless led away by some strange passion or infatuation—a marriage which Roger Tichborne could hardly have been expected to form if he ever intended to return to this country and claim his estates. Is there anything to show that he did not intend to return? Why should he have led this life? Why should a man in his position, with an independent fortune of 1000*l.* a year, which no person could touch, and the heir to a title and to large estates of the value of at least 20,000*l.* a year—the heir to a baronetcy—why should such a man adopt the life of a stock-driver and a butcher's assistant in Australia? These are very honest occupations if a man honestly pursues them, but they are not the occupations that a man of rank and fortune would be expected voluntarily to adopt. What explanation can be given of it? What explanation does the defendant himself give? The only explanation he gives is that he did not intend to come back to Europe until his father died. How long was he to wait? Would a man under such circumstances not have taken some trouble to find if his father was still living or had died? Besides, do we find any authority whatever in the letters of Roger Tichborne which intimates any such intention? All he

says there is that he was going away from England for some time, and would not reside at Tichborne while his parents lived.

Then there is another consideration, which also must be borne in mind. If there was one person in the world whom Roger Tichborne loved that person was his brother Alfred, and reading his letters to or about his brother it is impossible not to see that he was really fond of the boy, of whom he always speaks with a playfulness which is one of the best forms in which affection could show itself. Could Roger Tichborne, with his knowledge of how things stood as to the position of the property, fail to know that if his father died while he gave no sign of life or existence, his brother Alfred would step naturally, under the ordinary course of things, into the possession of the title and estates which the defendant, if Roger Tichborne, was entitled to? Could he fail to know that, grown to man's estate, Alfred Tichborne would be likely to form a union with some lady in his own position in life? Could he fail to appreciate the humiliation to which he would put that brother, as well as his wife and children, if, when he had assumed the title and entered on the enjoyment of his estates, he should have to step down from the position that he had taken, and to admit that he had improperly, in one sense, assumed a title and taken possession of estates to which he had no claim? No man, I think, could fail to be conscious of the painfully false position in which he was placing his brother by allowing him to take a position from which he was afterwards to be ejected, and I cannot help thinking that this is a matter which goes strongly to show that the defendant cannot be Roger Tichborne, who willingly permitted years and years to pass and allowed his father to die and go to his grave without taking the trouble to make any inquiry as to whether he was alive or dead.

Again, touching on the same subject and going over the same ground, can we persuade ourselves that Roger Tichborne would have written that Richardson letter? For what conceivable motive—for what earthly purpose—could he have done so? Then we come to his relations with Mr. Gibbs, and see what occurs then. He is ignorant of his birthplace; he asserts that his father had a seat in Dorsetshire, when in reality his father never had one there at all. He tells Mr. Gibbs that he has had the St. Vitus's dance; he tells him that he has been educated only by matches by a Jesuit priest, or a Christian Brother, he is not sure, and it does not matter which. He ignores entirely the three years' life at Stonyhurst. He ignores entirely the three years' life in the army. When Mr. Gibbs tells him that his mother says that he was an officer in the army he peremptorily denies it. The defendant represents that he enlisted in consequence of getting into some pecuniary difficulty or scrape; that he was bought out by his father after he was thirteen days in the army; that he was shut up at home, and kept there—until when? Until the very identical month in which Arthur Orton left London, but not the month by many months in which Roger Tichborne left this country. Then we have the extraordinary circumstance that he does not know the Christian names of his own mother. Can you reconcile that fact with his identity with Roger Tichborne?

Then he comes to England, and the same observations that apply with reference to Arthur Orton apply in the opposite direction to Roger Tichborne. How can you suppose that Roger Tichborne, on the very first night of his arrival in this country,

would go down to Wapping, that he should have recourse to fiction and fraud, and, in one instance, to forgery? But can you not suppose that Arthur Orton would communicate with his sister, in order to obtain information, so that he might not run his head against any one of the family, and so be detected and exposed. Can you imagine that Roger Tichborne would have done any one of these things, and for what purpose, and what possible explanation has been offered? These are the substantial difficulties, with which the learned counsel for the defence should have grappled, if he could, but of which I have heard no explanation whatever. Then we have the defendant going down to Alresford to look about the place, but going under a feigned name, concealing himself there, instead of immediately seeking his mother. We have him holding no intercourse with the family, keeping aloof from them, avoiding them, under the pretence of his mother's injunctions, which he said were not to see any one until he had seen her, when we know that her injunctions were to see her with the utmost despatch. Yet day after day passes while he is at Alresford, looking about Tichborne, and holding communication with the tenants there. And when at length he goes, in what form does he present himself? Instead of as a son rushing into the arms of his mother, he brings an attorney and a brewer's commission agent. And when he gets to Paris, instead of rushing to his mother, he lies down on a bed and turns his face to the wall. Are these things that would be done by the real undoubted son, or are they not? Well, then, he comes back. He has interviews with members of the family—interviews sought by them, not by him. Two meetings take place, and if you believe the evidence of the witnesses at those meetings he failed to know any member of the family. He mistook Mrs. Radcliffe for Mrs. Towneley and Mrs. Towneley for Mrs. Radcliffe, and on the second occasion he sees his aunt, Mrs. Nangle, and does not know her. All these things are strong evidence to show that he is not the man, if you can depend upon the testimony of the witnesses. Well, time passes on. You have heard the defendant's evidence—I have had occasion, I am afraid, to weary you with it, but it seemed to me of the very last importance that you should have the statement of the defendant fresh in your recollection.

Now, what is the knowledge the defendant had of the life of Roger Tichborne at Paris? He knows one or two circumstances, but there are others of which he knows nothing, of which it is very difficult to suppose that Roger Tichborne would be ignorant. The old friend whose pet he was as a boy he did not know. His second tutor—his tutor for three or four years—he did not know even by name. The issue which he had as a child is converted into a seton. The confessor to whom he was in the habit of confessing is not known even by name, and he puts forward another who never confessed him in his life. Of the journeys he took with his father and mother he is quite ignorant when first examined. The house in which they resided is described as being in the most out-of-the-way part of the Rue St. Honoré, in which it was not, and things are supposed to be seen from it which could not be seen. The first residence is made the last and the last residence the first. The street in which his father and mother lived, and where he took his final farewell of them, is supposed to be the street in which his tutor taught him as a boy, and the Rue

St. Honoré, where his parents never lived after 1844, is supposed to be the last street in which they lived. So much for Paris.

We now come to the reminiscences of Stonyhurst. What are they? He denied that it was his father who took him to Stonyhurst. We know it was. He tells us that he resided for the first 12 or 15 months he was there in a cottage. Do you believe that to be a fact? and if it is not, what becomes of the defendant's recollection of Stonyhurst? He tells us that after that he resided in the college. We know that the Philosophers resided in a separate and detached building called the Seminary. Of the Seminary he knew nothing. He supposes the Cemetery is meant when the Seminary is mentioned. Of the studies it is unnecessary to remind you. Of the jumbles of Hebrew, and Greek, and Latin, and mathematics, and chymistry, it is unnecessary to do more than in a passing observation to call attention to it. Of the masters he forgets those who taught him, and says those taught him who never taught him at all. Of the game of bandy—to which Roger Tichborne was particularly addicted—he knows nothing; he thinks it is part of the building. He puts a vacation in the winter when there was none, and misstates the time of the summer vacation. Are those things sufficient to establish the identity of the defendant as Roger Tichborne? Is this amount of knowledge in your judgment sufficient for that purpose, or does it tend altogether in the opposite direction?

Then as to the intermediate time in which he was undergoing a course of preparation for the Army. Here, again, we find everything reversed. He has no knowledge of his having failed in his examination, and having got the fact that Roger studied in London—a fact which was mentioned in Roger's letters—he conceived that he must have been examined at a time anterior to that at which the examination really occurred. He is totally ignorant of having studied with Mr. Moberly at Owlesbury—which is pronounced Usselbury—a name of which he knew nothing, even when mentioned in connection with Mr. Moberly, his tutor. He says he called Mr. Danby Seymour uncle; we know he did not. He speaks of Mr. Seymour as his grandfather; we know Roger did not. He forgets the butler's cottage at Knoyle—he even forgets the name of the butler, although we know that he lodged in the man's house when he set up for himself in St. James's-street. He forgets the dying illness of his grandfather, Mr. Seymour; he forgets that he went to Bath to see him; he does not know Mr. Seymour died at Bath; he asserts that he died at Knoyle. He forgets taking the last farewell visit to the person who, though not nominally, was in reality his grandfather, and had always shown to the boy that kindness which a grandfather would naturally show to a grandson. He does not know that Roger Tichborne went from Knoyle to Bath to take that last farewell, or that the grandfather, when Roger did go, was in the last stage of a lingering disorder, which rendered it perfectly hopeless that in this world they should ever see each other again.

Then we come to his life in Ireland—we come to his recollections about Dublin. There was a lady there—Lady Clanricarde, whom Roger knew well, but the defendant hardly knows her name. He says that he met her at the house of the Deases, when we know that the Deases had no house in Dublin, and that Lady Clanricarde had her house, at which he was not a casual but a constant visitor. He forgets Lady Clanricarde and asserts that

saw her in the house of a family, which family had no house in Dublin. Yet it is with this period of Roger's life that the defendant shows the best recollection. He can tell us many things that have occurred. He knows the circumstances of poor Clark being killed when Roger Tichborne's horse ran away with him. He knows that Roger Tichborne's horse on another occasion ran away with its rider and imperilled the life of a child. He knows the various tricks and practical jokes that were played upon Roger. He knows that a donkey was put in his bed and he knows the name of the man Davis, who was on duty that night, and whom Roger called to come and take the devil, as he supposed, out of his bed. He knows having punished men and sentenced them to drill and various punishments of that sort for military offences; and, what is more, he recollects, as he says, after a long lapse of years, the punishments he awarded them, and the names of the men whom he punished, giving instances of marvellous memory, as it appears to me, for he even recollects the number of a trooper's horse, associating the horse with the name of a particular man. We have numerous instances of this species of knowledge, and these simple-minded Carabineers come, and upon putting questions of this sort to him and receiving answers, or upon his asking them questions, they rush to the conclusion that he must be Roger Tichborne.

But are we satisfied that the information thus exhibited came from within, or must we not ask ourselves whether it did not come from without? We find that he surrounds himself with sources of extraneous information. Why does he take Bogle into his service, or rather into his household, for service he rendered none. Why does he bring that old man to England? For no earthly purpose that we can see only to have him beside him when he needed information which Bogle could render. For what purpose did he take Carter into his service—a man who had been Roger Tichborne's servant for many years and who knew all about Roger's military life? For what purpose did he take M'Cann, the worn-out old man, who could render no service in his household, but with a similar object? That is what we must ask ourselves.

How can we find an answer—what becomes of the knowledge of those details if you carry back your minds and recollections to his statements as to Australia? The man who recollects the number of the trooper's horse, and the little incidents of Roger Tichborne's military life, even to the men he had punished and the punishment he inflicted—that man, before he came to England, and before he had those meetings to which I have referred, did not know that Roger Tichborne had been in the Army at all. You cannot suppose it would occur to any one to say for a moment that he had a purpose in deceiving Mr. Gibbs. Not so. He had a purpose in telling Mr. Gibbs things which were incorrect to enable him to borrow a sum of money from the bank. He was obliged to answer the question which, with that view, Mr. Gibbs put to him; but if he knew the truth he could have had no possible motive in deceiving Mr. Gibbs by substituting falsehood for fact. When Mr. Gibbs reminded him that he never had said a word of having been an officer, as his mother said he was, in the Carabineers, he says, *'That is not true. I never was in the Carabineers. I enlisted in the 66th horse regiment, but I was only about 13 days in it, and therefore you must not ask for any information from me about cavalry*

drill.' Do you suppose that if he had known Roger Tichborne had been three years an officer in the 66th Dragoon Guards he would not have told Gibbs so? And, therefore, what becomes of all that knowledge of petty details which he exhibited in reference to Roger's three years of military life, when he did not know in Australia that Roger Tichborne had been in the Army at all, and especially when all these details may have been gathered from the persons with whom he surrounded himself, or possibly—I only put it hypothetically—may have been found recorded in a diary which Roger Tichborne kept? The same observation applies to Stonyhurst. He reminds the drawing-master of an event to which I need not more particularly refer; but what becomes of that solitary instance of Stonyhurst recollection when we know that in Australia he did not remember anything of having been at Stonyhurst? That he represented that he had enlisted in the 66th Regiment we find not only in the evidence of Mr. Gibbs, but in the document which was formally drawn up by Mr. M'Arthur, and signed by the defendant. What, I say, becomes of the Stonyhurst evidence, when we find that in Australia he was utterly ignorant of having been at Stonyhurst at all? However, so it stands.

He does show knowledge of these petty details, but with regard to all the great facts he is entirely at a loss. When he is asked to make the Wagga-Wagga will, he does not know the property which Roger Tichborne had a right to dispose of; he does not recollect his mother's name, unless you accept his explanation; and, in addition to that, he inserts the names of persons who could not have been known to Roger Tichborne, just as he does also, in the case of the ship, give names which Roger Tichborne could not possibly have known, unless upon the strained hypothesis of the counsel for the defendant, that, having associated so long with Arthur Orton, the recollections of Arthur Orton had been impressed upon Roger Tichborne's mind as his own. I confess this want of knowledge in Australia seems to me to afford the simplest and easiest solution of how it comes to pass that he does know things in England of which he knew nothing whatever before he came to this country. We must therefore cast around us to see what sources of information he had which would give adventitious aid to his mind in these things.

Now, gentlemen, what explanation is offered to you with respect to this want of memory upon the great and leading events of Roger Tichborne's life? How can you reconcile the fact that he has a knowledge of petty details which he might have obtained from extraneous sources, and has no knowledge of the great, leading, essential events appertaining to the life of Roger Tichborne? Says the learned counsel for the defendant, 'Memory is a strange thing. The mind of man is so strangely organised and constituted that you can never tell how any one of its faculties may work and exhibit its operations; and the strangest of them all, and one of the most difficult to follow and deal with, is memory. A man's memory may be so constituted that he may have a faculty for remembering the small things, but not the great.' Well, by those who deal in metaphysical science there is nothing that may not be asserted, and nothing that may not be more or less plausibly defended; but that is a sort of memory with which my experience has not made me acquainted. I should think that the great and leading events of a man's life would make the deepest impression on one's mind, and that a man

would not forget things which men ordinarily remember, and yet exhibit a wonderful faculty for recalling petty things which pass by unheeded in the floating stream of life, and which are not impressed on the memory unless something out of the ordinary happens to fix them on the mind. But, then, how do you account for the fact that the defendant tells things which are absolutely impossible? 'O,' says the learned advocate, 'that arises from the habit of giving way to extravagant fancies and indulging in a reckless disregard for truth.' But what do you say when we find him in conflict with twenty witnesses, every one of whom gives a distinct contradiction to what he says? 'O,' says the learned counsel, 'pay no attention to that.' Then, what shall we say about his defective memory? The last observations apply to assertions which prove to be untrue; but what shall we say to defects of memory with respect to essential and important things? Then we have another explanation which it is necessary to consider. The great point made by the learned counsel with respect to the defective knowledge which the defendant in so many instances exhibited, and which appears to render his identity utterly incompatible with that of Roger Tichborne, is this—that he had a diseased brain, disordered faculties. 'He had led a life of intemperance,' says the learned counsel, 'a life of vice; so that his brain was destroyed, his memory disordered, his faculties impaired.' Was that the case, or was it affirmed because the defendant exhibits a total inability to tell us of the leading incidents of Roger Tichborne's life—incidents which we might reasonably expect from any man who came forward to assume the personal character of Roger Tichborne?

What proof is there of a diseased memory? There is no disease traced to Roger Tichborne which could have that effect, and the best answer to be found to it is this—that, so far from showing a defective memory, the defendant exhibits, if we are to assume that those instances of knowledge are gathered from his own recollection, and distinctly exhibits, a memory of the most marvellous tenacity and power. He writes, after twelve or fourteen years, a letter to a man in South America, having references to people whom he says he had never seen but for one short fortnight or three weeks, and in that letter he enumerates thirteen different persons. Speaking of them with regard to their personal peculiarities, he manifests the most accurate recollection of them all, though every one has a foreign name, and it turns out that these are not fictitious personages, the coinage of his own imagination, but downright actual living people in the flesh, every one of whom is to be traced as either still alive or as having passed away. To my mind that is one of the most prodigious efforts of memory that can be conceived. I can well conceive that Arthur Orton, who for more than a year and a half or two years lived with these people, should show this recollection, but even then it exhibits a very considerable power of memory indeed. And, besides, consider all the instances of memory I have referred to this morning about the horses and the tricks played on him in his military life; all this implies a marvellous degree of memory, and yet we hear of disordered faculties. But does that apply to the defendant? I have read his cross-examination on all the points essential to this case, and there we find him struggling with the first lawyer of the Crown, and from time to time baffling the attempts of that distinguished advo-

cate to extract from him the information he wanted. Have you, in the course of that examination, to which I have recently called your attention, discovered any trace of diseased or disordered faculties? Was not the impression produced upon every man's mind this—that he was a man of extraordinary sagacity and shrewdness? Is not that the impression which naturally arises from the perusal of the evidence in print which was then taken? The learned counsel should recollect that it is not enough to start theories unless you support them by fact or by reasons which carry conviction to the mind; and if the learned counsel has not satisfied you that there is some ground for supposing that the intellect of the defendant is in the slightest degree disordered and impaired, then we come back to the question whether you find in the defendant that knowledge, either in the spontaneous conversations he has had with different individuals in answer to questions put to him, or in statements coming from him, which you would expect from Roger Tichborne? If you do not, then, when you put all the facts of the case together, the Australian life incompatible with anything that could be expected from any person like Roger Tichborne, but corresponding in all its essential elements with what we should have expected from Arthur Orton, when you take the statements made by Gibbs of the conduct of the defendant in Australia and consider what his conduct was when he came home from the first beginning to the very last moment, if you have followed the careful examination and analysis which I have made of Roger Tichborne's life and character, you can judge for yourselves whether it be in keeping with what we know of and would naturally expect from Roger Tichborne.

And I would make this further observation, suggested by my learned brother—that whenever things were exhibited to the eyesight of the defendant which could not have been brought to his knowledge from without his memory entirely fails. Photographs, coloured drawings, were shown to him, and the defendant has no memory at all. In the photograph of Knoyle, exhibiting that residence with unmistakable truth, there is the window of the room which Roger Tichborne occupied for years from time to time, for each year's holiday brought Roger there. There is the cottage where he used to smoke. There are places which must have been familiar to his mind. The defendant knows them not. Then, when he is brought to the test by questions devised for that purpose, how does he come out of it? He is asked about property with which Roger was as well acquainted as any one of you is acquainted with his own. In Wagga Wagga he knows nothing, and, though he might have learnt a lesson in England, when he comes to be examined in Court he knows no more.

Afterwards, when he is asked about the sealed packet, he knows nothing—he remembers nothing about it. But when it comes to his knowledge that the packet has been destroyed, then he represents it as instructions to his father's or his uncle's steward to deal with his uncle's daughter in a manner rendered necessary by his seduction of that uncle's child. The explanation on that subject which he makes you have heard; you have heard the evidence and all the observations which can be made upon it. Do you believe it or do you not? And if you do not believe it, it is the strongest and most conclusive proof that the man who put forward that statement, which, if true, is perhaps the most abominable that ever was

vented by the imagination of man or by the craft and subtlety of the devil—if you do not believe it, I say, can you suppose that Roger Tichborne would have recourse to such a statement in order to crush, to damn, to destroy the only woman that in life he ever loved—the woman for whom he had that passionate attachment which those papers that have been read to you reveal, and whom, had she shown herself as his foe when he returned, he never would have sought to destroy by such a story as that? And if you disbelieve it, if in your hearts and souls you believe it to be scandalous and false, there is nothing in the case more adverse to the defendant.

Now, gentlemen, I have gone through all the observations on this case which I think it necessary to make. I have tried to bring it before you as a great whole, convinced that in that way only can it be satisfactorily dealt with. I have sought to lay before you all the facts connected with it, fairly, truthfully, and impartially, but nevertheless with a stern sense of the duty which it was incumbent on me to discharge. I have been assailed from without by abuse from critics who entered upon the inquiry with a foregone conclusion, and with the belief, I suppose, that they know my business better than I do. I have been abused for placing the case before you, it is said, in a partial and one-sided point of view. Gentlemen, I cannot invent facts, and I cannot, with the utmost efforts of ingenuity, find explanations which have no reality in point of fact. In my opinion, a Judge does not discharge his duty who contents himself with being a mere recipient of evidence, which he is afterwards to reproduce to the jury without pointing out the facts and the inferences to which they naturally and legitimately give rise. It is the business of the Judge so to adjust the scales of the balance that they shall hang evenly. But it is his duty to see that the facts as they arise are placed in the one scale or the other according as they belong to one or the other. It is his business to take care that the inferences which properly arise from the facts are submitted to the consideration of the jury, with the happy consciousness that if he go wrong there is the judgment of 12 men, having experience in the everyday concerns of life, to set right anything in respect of which he may have erred. But if the facts are such that, placed in the scale to which they respectively belong, the one scale kicks the beam and the other goes down, the fault is in the nature of the thing and not in the conduct of the Judge. If converging from one point the footsteps concentrate in a common spot, and on that spot stand, and if when measured their measure corresponds with the foot-tread of the accused, it is the business of the Judge to take care that the fact shall be brought to the mind and the attention of the jury. I have taken counsel with my learned brothers, I think I may say on every point of this case. We have questioned our own minds as to whether solutions are to be found for many things that press with heavy weight on the defendant. If we could find none, it has not been the fault of our desire to do strict and impartial justice. But we must remember that while it is the business of judicial action to protect innocence, so, on the other hand, it is the duty of the Judge to take care that the guilty do not escape. In the conviction of the innocent and also in the escape of the guilty lies, as the old saying says, the condemnation of the Judge. It is the condemnation of the Judges of the fact as well as of the Judge who presides at the trial. You must take care

that the innocent does not suffer, but you owe it to society that if guilt is brought home to the accused that guilt shall carry with it the consequences of the verdict.

You have been asked, gentlemen, to give the defendant the benefit of any doubts you may entertain. Most assuredly it is your duty to do so. It is the business of the prosecution to bring home guilt to the accused to the satisfaction of the jury. But the doubt of which the accused is entitled to the benefit must be the doubt that is rational, that a sensible man may fairly entertain, not the doubt of a vacillating mind that has not the moral courage to decide, but shelters itself in a vain and idle scepticism. It is not a doubt of that kind; it must be a doubt which honest and conscientious men can entertain. But, gentlemen, you have been addressed in language the like of which has never before been heard within these walls. You have been exhorted, if there should be one man who might entertain any different opinion from the rest of his brother jurymen, that he should obstinately stick to it without seeking to reconcile it with the opinion of the rest of the body. I never heard that language addressed to a jury before, and therefore I am obliged to express my judicial sense of such an argument, not that I believe there is the slightest necessity for warning you against the doctrine, which might lead to mischievous consequences if it were to be entertained. But as the doctrine has been propounded, I must make an observation or two upon it.

I should be the last man to suggest to any individual member of the jury that if he entertains conscientious, fixed convictions, although he may stand alone against his eleven fellow-jurors, he should give up the profound and unalterable conviction of his own mind. The law requires the unanimous verdict of twelve men before a verdict of either 'Guilty' or 'Not Guilty' can be finally pronounced, and I say that if a man is satisfied on the evidence, after having given to the case every attention in his power, that he cannot find a verdict with the rest of his fellow-jurymen, it is right that he should stand by his conviction. But then we must recollect that he has a duty to perform and that it is this. He is bound to give the case every possible consideration before he finally determines upon the course he will pursue, and if a man finds himself differing from the rest of his fellows with whom he is associated in the great and solemn function of the administration of justice as jurymen, he should start with the fair presumption that the one individual is more likely to be wrong than the eleven from whom he differs. He should bear in mind that the great purpose of trial by jury is to obtain unanimity and put an end to further litigation; he should address himself in all humility and all diffidence in his own judgment to the task he has to perform, and carefully consider all the reasons and arguments which the rest of the body are able to put forward for the judgment they are ready to pronounce, and he should let no self-conceit, no notion of being superior to the rest in intelligence, no vain presumption of superiority on his part, stand in the way. What I am anxious to impress on you, and not on you only, is that the one or two who may stand alone against their fellows are bound to do their best to satisfy their minds that sound sense and judgment are not with the majority instead of with the few. That is the duty which the juryman owes to the administration of justice and the opinion of his fel-

lows, and therefore I must protest against the attempt to encourage a single jurymen, or one or two among a body of twelve, to stand out resolutely, positively, and with fixed determination and purpose, against the judgment and opinion of the majority.

If such rules as were laid down by the learned counsel for the defendant were adopted and acted upon, and great trials were rendered abortive by no verdicts being pronounced, and the recommencement of long protracted litigation would be necessarily occasioned, it would make trial by jury not the blessing that it is, the great and noble institution that it is, but a curse in the administration of justice, and lead by legislation to a modification in our existing course of procedure—a modification which I for one do not desire to see introduced. I have long thought that a jury, assisted by a Judge, is a far better tribunal for the elucidation and establishment of truth than a Judge unassisted by a jury would be. But I am perfectly satisfied that it is the business of the Judge to assist the jury in the way I have sought to assist you, by placing the whole case before you, by pointing out all the facts and the inferences which appear to me to arise from those facts. I trust you will be able, whichever way your verdict goes, to pronounce an unanimous verdict, and to put an end to this litigation, so as not to create in the popular mind the intense dissatisfaction which would arise from this trial being rendered abortive by the dissensions of the jury, which might lead to the introduction of a change into our system which then, I think, would be loudly called for, a change which I for one would deprecate and deplore, although its necessity would perhaps be undoubted, and the change would be one of which everybody would approve. So much for that matter.

But I have also heard other language addressed to you, such as I never heard before in a Court of Justice, and which I hope and trust I shall never hear again. You have been invited to pronounce your judgment not simply with reference to your own convictions, but with a view to promised 'ovations' at the hands of your fellow countrymen. I am sure there is not one of you, however much you may desire that public opinion should go along with you and should ratify your verdict, however much you may desire that that which you do should find favour in the sight of your fellow countrymen, I am sure there is not one of you who would not consider it an insult to be asked to sacrifice his own sense of duty and of right for the sake of popular applause, or the idle gratification resulting from what is called 'the ovation' of your countrymen.

There is but one course to follow in the discharge of great public duties. No man should be insensible to public opinion who has to discharge a public trust. No man should be insensible to the value of the good opinion, if you like the applause, of your fellow countrymen. But there is a consideration far higher than that. It is the satisfaction of your own internal sense of duty, the satisfaction of your own conscience, the knowledge that you are following the promptings of that still small voice which never, if we listen honestly to its dictates, misleads or deceives—that still small voice whose approval upholds us even though men should condemn us, and whose approval is far more precious than the honour or applause we may derive, no matter from what source—that voice whose approval makes us walk by day serene and makes our pillow smooth by night. Listen to

that, gentlemen, listen to that; do right and care not for anything that may be thought or said or done without these walls. In this, the sacred Temple of Justice, such considerations as those to which I have referred ought to have and can have no place. You and I have only one thing to consider, it is the duty we have to discharge before God and man according to the only manner we should desire to discharge it,—honestly, truly, and fearlessly, without regard to any consequences except the desire that this duty should be properly and entirely fulfilled. And, gentlemen, I say it without fear, and I say it not unadvisedly, that we have been threatened. A system of intimidation has been attempted to be brought to bear upon us who are seated here to administer justice. We have been told that if our countrymen do not meet us with sufficient reprobation the history of this cause shall be written in which those who do not take part with the defendant, or who think it necessary in the honest and fearless discharge of their duty to point out things that may make against him, shall be delivered over to the unrestrained license of unqualified abuse. We are to be handed down to posterity covered with infamy.

I have heard language applied to this tribunal which I will undertake to say in the whole annals of the administration of justice in this country no advocate ever before dreamt of addressing to a Court. When I say I heard it, I must correct the phrase. I did not hear it. It had been spoken with bated breath, and I must suppose only with the purpose and intention that I should not hear it. If I had heard it, most unquestionably it should not have passed without that punishment which it is competent for this Court to inflict and which should be inflicted upon those who outrage decency and heap upon it indignity and insult. The learned counsel spoke with bated breath, loud enough for the reporters to catch his words, but not for us. And yet one or two words caught our listening ears which to me seemed as if some contumely or insult was intended to be conveyed, and I called upon the learned counsel to speak out as a man should speak; but his answer was that his indisposition, brought about by overwork and exertion, prevented him from speaking aloud. Afterwards, however, when he changed his subject, he was loud enough to be heard at the other side of Westminster-hall.

I must say that in the way the learned counsel comes forward to insult this Court there is cowardice and insult combined. I rejoice to see the Bar of England here, in order that its members may hear the way in which a member of their body addressed the Court of Queen's Bench—I will say the august Court of Queen's Bench. There is abundant opportunity for pointing out any errors into which it may fall, but the Court is not to be insulted and bearded in this manner.

'There is no actor in this trial,' says the learned counsel, 'from the humblest to the most exalted' (we know whom he means), 'who may not well look with apprehension and almost with dismay at the position he may occupy before his countrymen and the world for all future ages. I should be sorry to think that there is any person connected with this great controversy who does not look with a species of pride in maintaining an honest fame before the world and posterity. I should be sorry to think that there was one of us who was dead to the future—who did not sometimes ask himself, with the utmost feeling of solemnity—
"How shall I also appear in the historical

miniscences of this great trial?" For my own part, from the first moment that I became connected with it I knew that it was one which must cover the names of all prominently engaged in it, in future ages, either with infamy or with honour, and I on a former occasion took the liberty of calling your attention to the blazon of glory which still surrounds the names' (this is intended for you, gentlemen), 'and which will for ever surround the names, of all those noble jurymen who were connected, in a former age, with the great Annesley trial, and I am anxious that a similar illumination of splendour should surround not your names only, but the names of others also, in the eyes of those persons who will read this trial during all ages, because never was there a trial in England, I believe, since that memorable trial of Charles I. which has excited more the attention of Englishmen and the world than this. Many things have passed in the course of this trial which I would give a portion of my heart's blood had not passed. Many things have occurred in the course of this trial which in my judgment will for ever blur and sully the name of certain individuals—individuals with whose name and glory many of us were concerned, individuals whose name and glory are part—'

Here I said, 'Will you speak a little louder?' and the learned counsel said, 'I will speak as loud as I can.' It would be idle to affect or pretend not to know to whom these observations connected with the alternative of infamy or honour were addressed. Whose names are to be 'blurred and sullied' for the future? Is that the way in which counsel is to speak of the Judges of the tribunal before whom he is pleading? I am sure that there must come but one response from the body that I see before me. (Applause from the Bar, which was immediately checked.) Gentlemen, the history of this cause may be written by whom it may; I care not. I am conscious of having done my duty in it, and I can only say:

'There is no terror in your threats,
For I am armed so strong in honesty
That they pass by me like the idle wind,
Which I regard not.'

But the history of this cause may be written hereafter by a pen steeped in gall and venom—a pen that may not scruple to lampoon the living or revile and calumniate the dead; I have no fears, the facts will speak for themselves. I have administered justice here now for many years. I cannot hope that my memory, like that of the great and illustrious men who have gone before me, will live unto after ages; but I do hope it will live in the remembrance—may I venture to say in the affectionate remembrance—of the generation before whom and with whom I have administered justice; and if my name shall be traduced, if my conduct shall be reviled, if my integrity shall be questioned, I leave the protection of my memory to the Bar of England (applause, which was again instantly suppressed), my relations with whom have never until this trial been in the slightest degree other than the most pleasant, and whose support has been, I may say, the happiness of my judicial life.

Gentlemen, I have done; I have discharged my duty to the best of my ability. It only remains that you shall do yours, and I am sure that the verdict you will pronounce will be received on all hands, *except by fanatics and fools*, as the judgment of twelve men who have brought to the consideration of this great cause the most vigilant attention, the most marked and, I may say,

remarkable intelligence, and the most sincere desire to discharge their duty before God and man according to what they believe in their hearts and souls to be the truth and justice of the case. (Applause, which was again checked).

Mr. Justice MELLOR.—Gentlemen, this being a trial at Bar, it is competent for each individual of the Court to express his own opinion, and to give such directions as he may think fit, and under some circumstances it might be his duty to do so. Happily, those circumstances do not now exist. You have heard from the Lord Chief Justice that during the course of this protracted trial we have had almost hourly opportunities of conference and discussion on the evidence, as to which we were entirely agreed; and we resolved that my Lord Chief Justice should speak in the name of the Bench. Gentlemen, I forbear, for reasons that are obvious, to say anything with respect to the charge that has just been concluded; but I do say this, that from the masterly and marvellous arrangement of the facts, from the perfect accuracy of the details, from the analytical and synthetical power which has enabled the Lord Chief Justice to extract such light from the correspondence of the undoubted Roger Tichborne with Mr. Gofford, with Lady Doughty, and with Lady Tichborne, his mother, and from his handling of the other facts and documents of the case, we are enabled to present to our minds and to call up before us Roger Tichborne as if we had known him alive. But there are two incidents of the case with respect to which I may venture to pronounce an opinion. I must say I entertain the highest sense of the value of good relations existing between the Judges and the Bar; but, though I concur in the censure which has been passed upon the learned counsel who led for the defence, I have no fear for the Bar of England. I have known them too long, and I have not the least doubt that in the future, as in the past, they will be able to distinguish between truckling and independence, between braggart demeanour and the manly dignity becoming their profession. There is another matter upon which I must make an observation or two, and that is with regard to the restraints which have been imposed upon the Press, and the exercise of the power of fine and commitment. That power is not conferred upon the Judges for the aggrandisement of their own individual dignity, but for the benefit of the public; and it is a power which ought to remain with them so long as it is exercised for the public interest. There is no greater friend of the freedom of the Press than myself. It is with the greatest reluctance that I ever impose on the Press any restraint at all; but if trial by jury is to continue as an institution, we ought to have power to prevent any interference with the free exercise of the functions of Judge and jury. In a trial of this description, in which the incidents are of the most striking character, and with regard to which the greatest excitement prevailed, if we were not to impose restraints upon the Press, we should have articles, no doubt very able and clever, discussing from day to day the evidence given, but written without any responsibility, except the responsibility of the writers' own consciences and regard to the interests of the paper. That would lead to other articles, and articles of great ability would be addressed not only to the public, but to the jury; influences would be brought to bear upon them which it would be impossible for the Judge to set right; and trial by jury would be

at last trial by the Press. I believe, therefore, that the power which the Judges possess necessary power, to be exercised in the face of and of public opinion, and under a responsibility so great that they feel that if it were improperly exercised it would be put an end to. I desire to express our great obligations to the Master of the Court, the Master of the N Office, Mr. Davis, and the other officers have given us such valuable assistance in this. The multiplicity of documents has been great, and yet not a moment has been lost in producing any of them whenever they were required.

Justice LUSH.—I cordially join in the thanks which my learned brother has paid to the members of the court for the most valuable aid they have given us during the whole of this protracted trial.

Gentlemen, you have heard from the Lord Chief Justice and my brother Mellor that it was not our intention that each of the Judges should address to you anything in the shape of a summing-up. We have consulted from day to day; the Lord Chief Justice has delivered his views, and we have been in entire harmony with our own, and I am proud to say that throughout the whole of this trial there has never been a difference of opinion between us on a single point. I adopt the directions of my Lord Chief Justice fully, and I consider myself as responsible for them as he has uttered them myself, entirely agreeing with him, as I do, in his views of the evidence, also in his remarks on the highly censurable conduct of the leading counsel for the defence. I do not but think that if a like spirit were manifested by the Bar, if advocates were at liberty to treat as enemies all those who were on the other side to brand them as perjurers and conspirators, to use denunciation and slander as a weapon, so-called independence of the Bar would become a public nuisance. I am sure I know the feeling of the Bar of England too well to think at the present moment that they would wish to use any such weapon, or that they would accept the course which the learned counsel has chosen to follow. The views of the Lord Chief Justice are the views of us all, and I emphatically and entirely concur with what he has laid down as the duty of a Judge. Some people seem to think that the more cogent the facts, the more the Judge ought to try to neutralise them. I do not concur in such an opinion; the duty of a Judge is to assist the jury in the discovery of the truth, whether the truth make for one side or the other. I entered upon this trial without any preconception whatever. I had never taken the trouble to read the evidence on the last trial, and I held no opinion as to whether the pretensions of the defendant were just or not just; indeed, I say, that whatever opinion I had was rather in favour, but I knew nothing about the facts. My previous views I have since formed have been formed from a careful consideration of the evidence, sifted in a mind which, I will venture to say, was wholly and entirely unbiassed. Gentlemen, I have no doubt that was the state of your mind also, and when you retire to consider your duty, you will take into consideration the evidence, and the evidence only. If that evidence satisfies you that the defendant is guilty, you will return a verdict to that effect; if it does not, you will acquit him.

Mr. M'HAON.—Your Lordships may be aware that it was my intention to suggest that the two bills raised at the close of the prosecution might

be raised by a bill of exceptions; but since my learned friend came into Court this morning I have come to the conclusion that a bill of exceptions is untenable.

The LORD CHIEF JUSTICE.—Well, in this it is quite unnecessary to say anything.

Mr. M'HAON.—I thought your Lordship would have expected me to say something.

The LORD CHIEF JUSTICE.—We should not go to any argument. A bill of exceptions is not tendered.

It was just after 12 o'clock when the jury retired to consider their verdict, and in the every part of which was densely crowded, excitement prevailed. Dr. Kenealy, who had occupied all the previous days occupied by the case, the Lord Chief Justice was but rarely present and then only for a very short time, was in place. He arrived before the sitting of the court and remained until the end of the proceedings. The defendant was in his usual place. I saw a space between the inner bar and the bench of rude table, covered with green baize, had been fixed to the floor; at this he was seated, and before him were writing materials, which on various occasions he kept continually using. Beside sat his solicitor and private secretary, and other the younger Bogle, his constant attendant throughout the trial. He entered shortly after 10 o'clock, looking nervous and anxious, seemed struck by the appearance of three or four plain clothes, who were sitting right in front of him, and who up to that day had not appeared in court. Their services were shortly to be required. As soon as the jury retired, Mr. Frayling, tipstaff of the Court, took his place beside the defendant in the seat before occupied by the younger Bogle. On a sudden there was a commotion, and it was whispered, but hardly believed, that the jury had agreed on their verdict. The court returned into court at 33 minutes past 12 o'clock. They were absent one minute less than an hour, and every one now knew what the verdict would be. They took their places in the dock, and their names were called over, and the Lord Chief Justice pronounced the verdict—'Guilty on all the counts with a special and emphatic vindication of Radcliffe.'

The defendant stood up, confused and abashed to hear his sentence.

Master COCKBURN, addressing the jury, Gentlemen, are you agreed upon your verdict? The Foreman.—We are.

Master COCKBURN.—Do you find the defendant guilty or not guilty on the first count?

The Foreman.—Guilty.

Master COCKBURN.—Do you find the defendant guilty or not guilty on the second count?

The Foreman.—Guilty.

Master COCKBURN.—You say he is guilty on both counts, and that is the verdict of you?

The Foreman.—That is the verdict of us.

The LORD CHIEF JUSTICE.—Are you agreed upon all the issues? Are you agreed that the defendant is not Roger Tishborne?

The Foreman.—We are, my Lord.

The LORD CHIEF JUSTICE.—Are you agreed that he is Arthur Orton?

The Foreman.—We are.

The LORD CHIEF JUSTICE.—Are you agreed on the issue of the assignment of perjury in reference to the sealed packet and Lady Radcliffe?

The Foreman.—We are.

Mr. HAWKINS.—On behalf of the Crown for immediate judgment on the defence.

The Foreman of the Jury.—I ~~just~~ read the verdict. We find, first, that the defendant is not Roger Charles Doughty Tichborne; secondly, we find that the defendant did not seduce Miss Catherine Doughty, now Lady Radcliffe, and, further, we find that there is not the slightest evidence that Roger Charles Doughty Tichborne was ever guilty of undue familiarity with his cousin Lady Radcliffe on any occasion whatever (applause); thirdly, we find that the defendant is Arthur Orton.

The LORD CHIEF JUSTICE.—That disposes of all the issues.

The Foreman then handed to the Lord Chief Justice a written paper prepared by the jury, and asked the opinion of the Court whether it was a proper one to be read.

The LORD CHIEF JUSTICE.—Yes, I think it is quite right. This is the general opinion of you all?

The Foreman.—Yes, my Lord, the general opinion of us all.

The LORD CHIEF JUSTICE thereupon read the paper, which was in these terms:

'The jury desire to express their opinion that the charges of bribery, conspiracy, and undue influence brought against the prosecution in this case are entirely devoid of foundation; and they regret exceedingly the violent language and disrepute of the leading counsel for the defendant in his attacks upon the conduct of the prosecution and upon several of the witnesses produced in the case. (Signed) H. F. DICKENS, Foreman.'

The defendant having been ordered to stand up, Mr. Justice MELLOR pronounced the sentence the Court upon him as follows: Thomas Castro, otherwise called Arthur Orton, otherwise called Roger Charles Doughty Tichborne, Baronet, after trial of unexampled duration, you have been convicted by the jury of the several perjuries charged in the counts of this indictment, and which were truly described by your counsel as crimes as black and foul as Justice ever raised his sword to strike. In the trial of your case the jury have exhibited a care, a patience, and an intelligence never surpassed—indeed, it was such to extort expressions of admiration from your counsel, and their verdict meets with the unanimous approval of the Court. Indeed, it is difficult to conceive how any person who has considered the intrinsic improbabilities of your story, and who has intelligently considered the evidence which has been adduced in the course of this trial, could have come to any other conclusion. The testimony of individuals, however numerous and respectable they may be, to your personal identity with either Arthur Orton or Roger Tichborne is comparatively of little worth after so long a lapse of time, except in the instances in which there existed special interest to observe and remember you. Of course the evidence of Mrs. Loder, of the family of Roger Tichborne, and Mr. Gosford is of great importance in this case. When I mention the name of Mr. Gosford I do so for a moment—speaking for myself at all times—to say that he has placed public justice in his debt.

Our entire ignorance of the native tongue of Roger Tichborne coupled with at least the partial translation of another language, the tattoo marks which were proved to have existed on the arm of the undoubted Roger Tichborne, and his genuine letters and the letters written by you whether in the character of Roger Tichborne or Arthur Orton—the admissions expressly made or implied in your conduct, and all that is known of the history

of the life and character of Roger Tichborne and of yourself present an accumulation of proof such as can rarely be given in a court of justice, and which conclusively demonstrates the propriety of the verdict of the jury. No man can look with an unprejudiced mind and a clear observation at the letters of the undoubted Roger Tichborne without coming to the conclusion that they were never written by you, while between the undoubted letters of Arthur Orton and your own there is evidence of identity most complete and convincing. Of what avail could the negative evidence of your identity with Arthur Orton be against the circumstances connected with your visit to Wapping, with your assumption of a false name, and your correspondence and dealings with the family of Arthur Orton, added to the fact that your counsel did not venture to put into the box Arthur Orton's sisters, who from the very first were in your interest, who had received money from you, and had made affidavits in your favour? The inference from your not calling them is irresistible—namely, that they were possessed of knowledge which must have tended strongly to prove your identity with Arthur Orton. That question, important as it is, is only material as affording one of the modes of proof that you are not and cannot be Roger Tichborne.

Whether you originally conceived and planned the entire scheme which you ultimately carried out, I know not. The marvellous growth and development of your knowledge as to the circumstances connected with the history of Roger Tichborne and his military life, leave it uncertain whether your original design was not enlarged by reason of the ease with which you found people so ready to become your dupes, and I fear in some cases your accomplices. However that may be, in the carrying out of your scheme you hesitated at no amount of perjury and fraud which you thought to be necessary to its success. Wicked and nefarious as it was to impose yourself upon society as Roger Charles Tichborne, and to attempt to deprive the lawful heir of his inheritance, that offence sinks almost into insignificance when compared with the still more infamous perjury by which you sought to support your scheme. I refer to your attempt to blast the reputation of Lady Radcliffe. No more foul or deliberate falsehood was ever heard in a court of justice. I can hardly restrain the indignation which I feel at the incredible baseness of your conduct in that respect. Happily the means of refuting that cowardly calumny were immediately at hand, and never was a charge so completely shattered and exposed as was that. It is not, however, because the refutation of the falsehood was singularly easy and complete that the baseness of your conduct is diminished. I believe I am speaking the sentiment of every member of the Court when I say that the punishment about to be assigned by the Court is wholly inadequate to your offence. The framers of the Act of Parliament that fixes and limits the sentence which the Court is authorised to pass upon you, never dreamt of circumstances so aggravated as exist in your case. The sentence of the Court which I now pronounce is, that for the perjury alleged in the first count of this indictment upon which you have been convicted, you be kept in penal servitude for the term of seven years; and that for the perjury alleged in the second count of this indictment of which you have also been convicted, you be kept in penal servitude for the further term of seven years, to commence immediately upon the expiration

n of the term of penal servitude assigned to
in respect of your conviction upon the first
nt of this indictment, and that is the sentence
the Court.

The Defendant.—May I be allowed to say a few
ords?

The LORD CHIEF JUSTICE.—No.

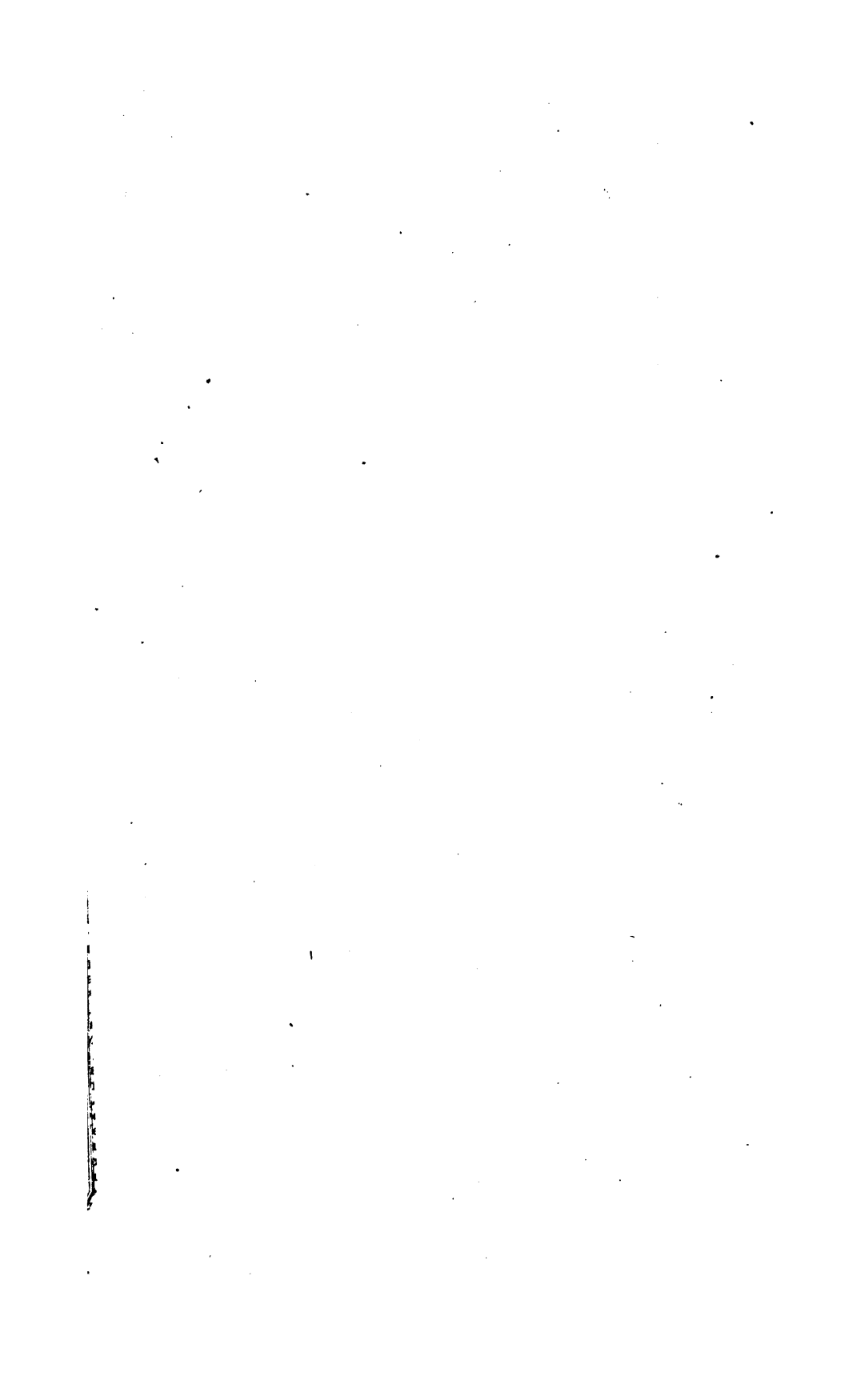
The defendant then shook hands with his lead-
g counsel, Mr. Kenealy, and was immediately
erwards removed from the court in the custody
Mr. Frayling, jun., the tipstaff.

The LORD CHIEF JUSTICE.—I wish in the first
ce to say that I have received a letter from Mr.
cock Webb, in which he assures me that he was
ither a party to the scheme for getting Mr.
sford to meet the defendant at the Grosvenor
tel, nor in any way privy to it. The evidence
Mr. Bulpett led me to suppose there had pre-
usly been a consultation with the gentleman
o had been throughout advising in the matter,
d that he approved the plan which was adopted.
assumed that that gentleman was Mr. Locock
ebb. I am glad to find that such an idea was a
sapprehension on my part, and I am also ex-
remely anxious to say at the earliest possible
ment that I accept his disclaimer and assur-
ces on that point in the most unqualified man-
r. I have also received a letter from General
ustance, saying it is a mistake to suppose that
was the commander of the squadron which
t into a difficulty at Cahir. It was Alex-
der Cumming, a Carabineer, who mentioned

General Custance's name, he having thought that
Captain Custance was the officer commanding
at that time the squadron in question. I am
extremely anxious that this correction should be
made known. Gentlemen, I do not think we ought
to part without my thanking you for the patience
—the prolonged and enduring patience—which you
have exhibited in this case. Your anxiety to get
at the bottom of the case and to sift it to its
foundations in order to ascertain the truth and to
do justice has been most marked. No jury ever
deserved a more unqualified encomium on the part
of those who have presided at a trial than you
are entitled to at our hands. In that we all
concur. I much regret that so much of your
valuable time has been taken from your several
avocations, but it may be some consolation to you
to think that your names will be associated with
the most remarkable trial that has ever occurred
in the annals of England.

The Foreman.—My Lords, I beg to thank you
on behalf of my colleagues for your complimen-
tary remarks and for the extreme kindness which
you have shown to us throughout this case. I have
also to express our thanks to the Masters and
other officers of the Court for the courtesies they
have shown towards us; and to Mr. Inspector
Denning and the police under his command for
the protection they have afforded us on several
occasions.

Their Lordships then retired, and the pro-
ceedings terminated.



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